

DD/A Registry
File *Personnel 17*

PERS 77-748

9 MAR 1977

DD/A Registry

77-1342

MEMORANDUM FOR: Inspector General

FROM : F. W. M. Janney
Director of Personnel

SUBJECT : CIARDS Study by Mr. Andrew B. Ruddock

REFERENCE : Your memo to DD/A dated 28 Feb 77, same
subject

1. This is in reply to referent memo in which you asked the DD/A for the status of the suggestions made by Mr. Ruddock.

2. We have received from the Chiefs of CI Staff and Central Cover Staff and the Director of Security their comments on a paper which we submitted proposing various methods of making available to employees information on domestic qualifying service. The suggestions contained in their responses have been examined and a consolidated document has just been submitted to me for my review. I expect, therefore, that in the very near future we shall be forwarding to the DD/A a paper containing a firm proposal on the method of making such information available to employees throughout the Agency.

(Signed) F. W. M. Janney

F. W. M. Janney

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STATINTL DD/Pers/SP/ [REDACTED] gec (8 Mar 77)

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| INSPECTOR GENERAL |
| 77-0391 |

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| DD/A Registry |
| 77-1110 |

28 SEP 77

PERS 77-707

MEMORANDUM FOR: Deputy Director for Administration

FROM : John H. Waller
Inspector General

SUBJECT : CIARDS Study by Mr. Andrew E. Ruddock

In the subject study completed in August 1976, Mr. Ruddock suggested that certain actions be taken to improve an already admittedly well administered system. For example, it was recommended that the Agency consider a suggestion by [REDACTED] that the CIARDS Board prepare narrative descriptions of the kinds of service that would or would not be considered qualifying service for CIARDS. We would appreciate knowing what actions have been taken in response to Mr. Ruddock's suggestions.

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[REDACTED]
John H. Waller

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Approved For Release 2002/01/08 : CIA-RDP80-00473A000600030015-1

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| DD/A Registry |
| 77-1110 |

28/572

MEMORANDUM FOR: Deputy Director for Administration

FROM : John H. Waller
Inspector General

SUBJECT : CIARDS Study by Mr. Andrew E. Ruddock

In the subject study completed in August 1976, Mr. Ruddock suggested that certain actions be taken to improve an already admittedly well administered system. For example, it was recommended that the Agency consider a suggestion by Mr. [REDACTED] that the CIARDS Board prepare narrative descriptions of the kinds of service that would or would not be considered qualifying service for CIARDS. We would appreciate knowing what actions have been taken in response to Mr. Ruddock's suggestions.

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John H. Waller

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OGC 76-6469

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DD/A Registry

File PERSONNEL-17

MEMORANDUM FOR: Deputy Director for Administration

FROM : F. W. M. Janney
Director of Personnel

SUBJECT : Recommendation for Changes in the Designation
and Review of Participants in the CIA
Retirement and Disability System

REFERENCE : Mr. Andrew Ruddock's report on the administra-
tion of the CIA Retirement and Disability
System, dated 30 August 1976

1. Action Requested: That you consider proposed changes in the administration of the designation and review of participants in the CIA Retirement and Disability System.

2. Background:

a. In his report on the administration of CIARDS, Mr. Andrew Ruddock proposed that employees be designated as participants in CIARDS only after they have completed 60 months of qualifying service. He based his proposal on his finding that the present system of designation and review is time consuming and cumbersome, of no advantage to the employee or the Agency, and causes a constant flow of employees into and out of the System with attendant transfers of retirement funds between the two retirement systems.

b. In accordance with HR [REDACTED] we designate employees as participants in CIARDS when they have 18 and 36 months of qualifying service for 5 and 10 years of Agency service, respectively. The regulation also calls for periodic reviews at 10 and 15 years of Agency service, at which time the employees must have completed 36 and 60 months, STATINTL

respectively, to remain in the System. Those employees who have not completed the required qualifying service at the specified time of the review are removed from the System. At the Fifteenth Anniversary Review, if an employee has completed 60 months of qualifying service he is adjudged qualified for continued coverage under CIARDS and is afforded a vesting election. Those employees who are removed from the System at either review may be redesignated as participants should they later complete the additional qualifying service necessary for their years of Agency service.

3. Staff Position:

a. After study of Mr. Ruddock's proposal, we have determined that the administrative work required by the Career Services, the Office of Personnel and the Office of Finance will be greatly reduced by adopting it. To do so will not affect an employee's rights for retirement since, except for disability and death-in-service, an employee must have completed at least 60 months of qualifying service in order to retire under CIARDS. Retirement benefits for disability and for death-in-service, for employees with less than 20 years of service, are now the same under the Civil Service Retirement System and CIARDS; therefore, these employees would not be penalized by not participating in CIARDS. Also, with the recent passage of the amendment to the CIARDS on the financing of the Fund, the Office of Finance advised that this change will not cause any adverse affect on the financing of CIARDS retirements. All Offices concerned see nothing but advantages to adopting this proposal.

b. There are a considerable number of participants now in CIARDS who have not completed 60 months of qualifying service, and to remove them from participation en masse would not only be a significant task workwise but might be somewhat of a morale factor. These employees could be retained in the System until their next regular review date, at which time they could be removed from the System if they have not completed the required 60 months of qualifying service. By this method the System would be purged within the next five years of participants with less than 60 months of qualifying service. After this purging, there would be no further need for a Tenth Anniversary Review.

4. Recommendations: It is recommended, therefore, that you approve the following changes in the administration of CIARDS:

a. That the practice of designating as participants in CIARDS those employees with 18 and 36 months of qualifying service for 5 and 10 years of Agency service, respectively, be discontinued.

b. That employees be designated as participants in CIARDS only after they have completed 60 months of qualifying service.

c. That participants who currently have less than 60 months of qualifying service be allowed to remain in the System until their next regular review date, at which time they will be removed from the System if they have not completed the required 60 months of qualifying service.

d. That Headquarters Regulation [REDACTED] be amended to reflect the changes noted above and that a Headquarters Bulletin and Field Dispatch be produced to inform employees in general terms of the changes.

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[REDACTED]
F. W. M. Janney

18 NOV 1976

Office of General Counsel

Date

Concur: (signed) Thomas B. Yale

26 NOV 1976

Office of Finance

Date

APPROVED: [REDACTED]

1 DEC 1976

Date

DISAPPROVED: [REDACTED]

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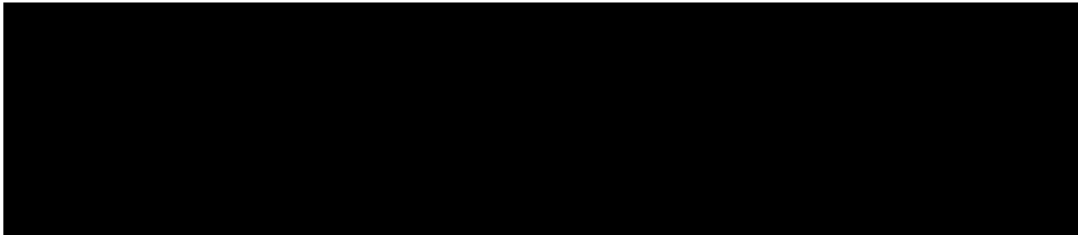
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CENTRAL INTELLIGENCE AGENCY

WASHINGTON, D.C. 20505

8 OCT 1976

DD/A Registry
File Personnel 17

Mr. Andrew E. Ruddock

STATINTL

Dear Mr. Ruddock:

I have received and reviewed your report of 30 August 1976 relating to the Agency's administration of the CIA Retirement and Disability System and the concern of the House Armed Services Committee regarding possible deviations from designation criteria.

First let me tell you how deeply grateful I am that you accepted this assignment. As you know, we chose not to use Agency officers to conduct the study directed by the Committee but rather an outside person who would have no personal or professional interest in the outcome of the study. The quality, objectivity and thoroughness of your report justify our earlier conviction that you were the best person for this task.

Even with the two deviations identified and discussed in your report, I found your analysis of our overall administration of this important retirement system comforting and reassuring, and I believe that the House Armed Services Committee will feel the same way.

I want you also to know how very much I appreciate your willingness to join me in meeting with members of the Committee in the event they have questions concerning the scope and substance of your report.

Again, my deep appreciation for taking on this difficult assignment and for such an outstanding and comprehensive piece of work.

Sincerely,

/s/ George Bush

George Bush
Director



**SUBJECT: Letter of appreciation to Mr. Andrew E. Ruddock from
the Director**

Originator: (Signed) F. W. M. [REDACTED]
Director of Personnel

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DD/Pers: [REDACTED] bbf (28 Sep 76)

DD/A Registry
PERSONNEL-17

DD/A Registry

76-4625

SEP 17 1976

MEMORANDUM FOR: Deputy Director for Administration
THROUGH : Director of Personnel
FROM : [REDACTED]
SUBJECT : Review of the Administration of CIARDS

STATINTL

1. Transmitted herewith is the report submitted by Mr. Andrew E. Ruddock on his examination of the Agency's administration of the CIA Retirement and Disability System. As you know, the Agency was directed to conduct such a study with results to be reported to the House Armed Services Committee by the Director not later than 1 October 1976, and on an annual basis thereafter.

2. Mr. Ruddock's mission as stated in his contract was to conduct and produce a careful analysis of the application of the qualifying provisions of section 203 of the CIA Retirement Act in designating participants with reference to the special circumstances justifying their inclusion thereunder. This mission statement is almost a verbatim extract from the directive contained in the report of the Committee on Armed Services in clearing our proposed amendments to CIARDS.

3. In recommending to the Director that Mr. Ruddock conduct the review required by the Committee, we had every confidence in his integrity, expertise and overall skills, and I fully expected an objective and complete report from him. I must say, however, that the depth of his understanding of the legislative history, management attitude towards and use of CIARDS, and other aspects related to the administration of CIARDS as reflected in his report are truly surprising, especially in view of the time available to complete his review.

4. This report should be reassuring to you, to the Director, and to the House Armed Services Committee that

the Agency has indeed administered CIARDS essentially within the intent of the law and its legislative history. Moreover, Mr. Ruddock's report should also put to rest the concern previously expressed by the Inspector General regarding the operation and administration of CIARDS.

5. While Mr. Ruddock's report covers the overall administration of CIARDS, I should like first to single out his comments that respond directly to views expressed by Congressman Stratton. You may recall that Mr. Stratton was of the opinion that only those employees whose continued usefulness to the Agency was impaired were eligible for retirement under CIARDS. Moreover, he was concerned over the fact that employees could be designated participants with fewer than 60 months, even after only 18 months, of qualifying service.

a. Mr. Ruddock makes it clear in his report that the legislative history reflects that while types of service that can lead to impairment for continued usefulness may justify as qualifying under CIARDS, this is not a requirement for each individual retirement case. He points out that the legislative history recognizes, and indeed the law itself permits, voluntary retirements at early ages -- some before impairment actually detracts from performance or usefulness -- and that the legislative history and the law also recognize that many careers will not be impaired at all and may continue on to age 60, or age 65 if GS-18 and above.

b. Mr. Ruddock believes that Mr. Stratton's concern that employees might become participants after only 18 months of qualifying service probably reflects some misunderstanding on his part regarding the difference between mere initial designation and full and vesting of coverage in the System. Nonetheless, Mr. Ruddock's study led him to conclude that the present process of designation, removal and redesignation is cumbersome and time consuming and results in no advantage to employees or the Agency. He suggests that the Agency consider designation only after the full 60 months

of qualifying service have been attained, unless this would result in an adverse effect on the CIARDS fund. We agree and have asked the Office of Finance to comment. The preliminary view is that if our pending legislation is enacted, there would be no adverse effect on the CIARDS fund in effecting this change and we would plan to do so. (This will be a little tricky with respect to those employees who are now participants but have not yet performed 60 months of qualifying service. After study, we will submit a paper for your review and approval.)

6. Mr. Ruddock cites the so-called "liberal period" in 1968-1969 as a possible deviation from a strict application of criteria for designating participants. I believe he has put this in proper focus, however. (See pages 72-75 of the report.) He also surfaces another deviation, one of being more restrictive than the law permits. Much to our surprise, as well as to [REDACTED] Mr. Ruddock found that section 111 of the CIARDS law allows all service performed as a participant in the system to be qualifying in addition to service determined by the Director to be qualifying. Hence, under our system of designating individuals as participants after only 18 months of qualifying service, the law allows all periods of Agency time served thereafter while a participant to be qualifying. Our regulations, on the other hand, provide for a periodic review of the individual's qualifying service and removal from the system of participants who do not conform to these periodic standards. It is interesting to note that Agency officials, the consultants who reviewed our regulations before they were submitted to the Congress, and the Congressional staff members all missed this clear contradiction between the law and the regulations. The Agency has never given credit for all service performed as a participant -- as provided by the law -- but rather applied the more restrictive concepts or requirements established in the regulations; and many participants have been removed from the System for failure to acquire the necessary periods of qualifying service.

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7. In recommending that the Agency resolve the difference between the law and the regulations, Mr. Ruddock sets forth four alternatives on page 93. Of these, he notes that by amending the regulations and procedures to designate only those employees who have at least 60 months of qualifying service, alternative 4, the difference between the law and our regulations and practices is resolved. Only those participants who have already performed a full 60 months of qualifying service would be designated.

8. It is clear from the report that Mr. Ruddock believes that the Agency has applied a tight and restrictive policy to the determination of domestic qualifying service except for the liberal period in 1968-1969. He recognizes that determinations of such service are difficult and time consuming and are arrived at as the result of subjective judgments by members of the Retirement Board based largely on precedent cases, memory and continuity of membership. He points out that such a system makes it difficult for employees to know whether or not their own domestic service might be qualifying. Therefore, he suggests that we implement a suggestion made by [REDACTED] to reduce to writing some of the considerations used by the Retirement Board to determine whether periods of domestic service are or are not qualifying. We agree and have initiated this effort.

STATINTL

9. You will find of great interest other comments by Mr. Ruddock in his report. For example, he indicates that in his judgment CIARDS has proven to be an effective tool of management. He points out that an early retirement system is not a reward for employees, but is instead a tool of management; and that CIARDS has played a useful role in helping move numbers of employees out of the Agency and at ages young enough to contribute to maintaining a youthful workforce in the areas in which qualifying service occurs and in which youth, stamina, and innovation are valuable. He also shows that CIARDS is a generous retirement system, but only in comparison with the general Civil Service System. In his presentation he shows that CIARDS lags behind other retirement systems.

10. One special comment on the granting of qualifying service automatically for time spent overseas: Mr. Ruddock covers this several places in his report, but we should be relieved by his conclusion that the Agency policy of crediting all overseas service seems quite reasonable and that "... the policy decision to consider all overseas service qualifying appears to be clearly within the range of discretion given to the Director of Central Intelligence by the CIA Retirement Act." At the same time, please note the last paragraph on page 99 of Mr. Ruddock's report. While I would personally have not wanted that particular observation included, it is important to note that in his last paragraph Mr. Ruddock finds that our practice of qualifying overseas service and that our approving retirement without requiring a finding that the employees' services are impaired are both a proper exercise of discretion CIARDS gives to the Director and are consistent with the intent of Congress. Our hope, of course, is that the Congress does not do anything to redirect its intent or change the law.

11. I am extremely pleased at Mr. Ruddock's overall conclusions and the scope and substance of his report because it vindicates what we have consistently believed, i.e., that essentially we have made a concerted effort to comply with the intent of Congress and to administer the system in a conscientious and diligent way.

12. My recommendation is that the report be sent to the Armed Services Committee as is. If you agree, I have prepared a letter from the Director to the Committee Chairman transmitting the report and also indicating that Mr. Ruddock would be willing to appear before the Committee to answer any questions which his report might generate.

STATINTL

Attachments

Executive Registry

76-8249/3

27 SEP 1976

MEMORANDUM FOR: Director of Central Intelligence

FROM : John F. Blake
Deputy Director for Administration

SUBJECT : Review of the Administration of CIARDS

1. In its report clearing amendments to the CIA Retirement and Disability Act, the House Armed Services Committee noted that in administering this Act during recent years, the Agency may have deviated in some respects from the original intent of Congress. The Committee, in the exercise of its oversight function, directed the Agency to conduct a careful analysis of the application of the qualifying provisions of section 203 of the Retirement Act in designating participants and that you report the results of this analysis to the Committee by 1 October 1976, and annually thereafter.

2. You authorized our using Mr. Andrew E. Ruddock to conduct the study because of his acknowledged ability in the field of retirement, earned over many years as a former Director, Bureau of Retirement and Insurance, Civil Service Commission, and because of his outstanding reputation for integrity throughout Government and in the Congress.

3. Mr. Ruddock has completed his review and his report is attached. In his transmittal letter to you, found on the inside of the report, Mr. Ruddock includes the following observation:

"I found the Agency's exercise of the discretion to designate CIARDS participants to be of consistently high quality, with due concern that determinations of what service is qualifying conform to the law, the regulations, and the intent of Congress as the Agency understands that intent."

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4. I think you will find Mr. Ruddock's report to be comforting and reassuring, in terms of our administration of this important retirement system, and interesting in terms of his overall assessment of the importance placed on this retirement system by Agency management.

5. Mr. Ruddock's report covers two concerns specifically stated by Congressman Stratton during the Committee hearings: One was Mr. Stratton's view that only those employees whose continued usefulness to the Agency was impaired could receive this preferential retirement benefit; the other dealt with the Agency's practice of designating participants with less than the full 60 months of qualifying service.

a. Mr. Ruddock's report makes clear that while types of service that could lead to impairment for future usefulness may justify retirement under the system, the legislative history clearly shows that this is not a requirement for each individual retirement case. He notes that both the legislative history and the law permit voluntary retirement at early ages, and the law recognizes that many careers will not be impaired at all and may continue to the statutory mandatory retirement age.

b. On the matter of designation with less than 60 months of qualifying service, Mr. Ruddock believes that Mr. Stratton's concern reflects some misunderstanding on his part regarding the difference between mere initial designation and full and vesting of coverage in the System. Nonetheless, Mr. Ruddock concludes that the present process of designation, removal and redesignation is cumbersome and time consuming and results in no advantage to employees or the Agency. He suggests that the Agency consider designation only after the full 60 months of qualifying service have been attained. We agree and plan to take the necessary action to effect this change in our regulations and practices.

6. Mr. Ruddock's report cites two possible deviations in the designation of participants. One was the result of a temporary liberal approach in 1968-1969 to crediting some domestic service as qualifying service for a limited number of retirements. In 1968 the Agency faced a need to reduce total strength and, at the same time, faced the problem of freeing personnel spaces in order to permit new hiring. Somewhat by coincidence, it found that the quota of 400, fixed by Congress as the number of retirements, was not going to be fully used. Consequently, the Agency liberalized its judgment as to what constituted domestic qualifying service. Mr. Ruddock points out, however, that only 58 domestic service cases were approved during this period of time -- still leaving unused quota -- and that many of the 58, perhaps as many as half, would have been approved without any relaxation of the application of the criteria. Even in these cases, he found that the Agency required specific demonstration that the type of service performed by the employee was within the law and regulations; but it accepted a lesser degree of hazard and less stringent security requirements and adopted a more tolerant view of what kinds of Agency service made it difficult for a retiree to obtain other employment.

7. The second deviation that he notes is the result of applying too restrictive an approach in the use of criteria in section 111(3) of the Act. That section of the law reads:

"Qualifying service" means service performed as a participant in the system or, in the case of service prior to designation, service determined by the Director to have been performed in carrying out duties described in section 203.

Mr. Ruddock points out that all designations made by the Agency were made under the second criterion in the above definition of qualifying service and that the Agency has never given credit for all service performed as a participant. He construes this as a restrictive practice by the Agency and clearly points out that steps should be taken to conform practice to the law. We believe that our plan to change Agency regulations to require designation only after completion of 60 months of qualifying service takes care of this concern.

8. In his analysis Mr. Ruddock concludes that the CIA Retirement and Disability System has been a very useful tool of Agency management and has served the purposes articulated by the Congress and the Agency in its early design and enactment. I am relieved by his conclusion on page 99 of his report that except for the 1968-1969 relaxation and the restrictive policy applied to the qualifying of domestic service, he could find no deviations from basic policy adopted in the original implementation of the CIA Retirement and Disability System.

9. I am extremely pleased at Mr. Ruddock's overall conclusions and the scope and substance of his report because it vindicates what we have consistently believed, i.e., that essentially, the Agency has made a concerted effort to comply with the intent of Congress and to administer the system in a conscientious and diligent way.

10. It is recommended that the report be sent to the Armed Services Committee as is. If you agree, it is recommended that you sign the attached letter to the Chairman, Committee on Armed Services. If the letter can be returned to me, we will arrange for transmittal of the letter, the original of Mr. Ruddock's report, and a sufficient number of copies for the Committee's use by the Office of Legislative Counsel.

/s/John F. Blake

John F. Blake

Attachments

- A - Transmittal letter to Chairman, Committee on Armed Services, House of Representatives
- B - Analysis of Designation of Participants Under Section 203 of the CIA Retirement Act by Andrew E. Ruddock

SUBJECT: Review of the Administration of CIARDS

CONCURRENCE:

Signed
George L. Cary
Legislative Counsel

APPROVAL:

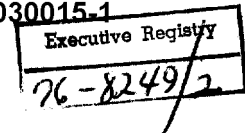
/s/ George Bush
George Bush
Director of Central Intelligence

6 OCT 1976

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CENTRAL INTELLIGENCE AGENCY
WASHINGTON, D.C. 20505

6 OCT 1976

Honorable Melvin Price, Chairman
Committee on Armed Services
House of Representatives
Washington, D. C. 20515

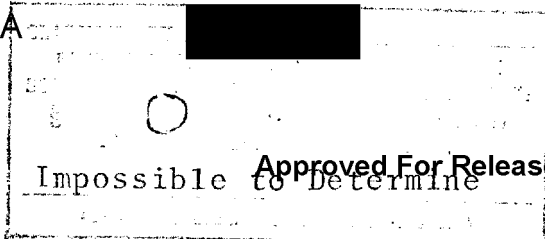
Dear Mr. Chairman:

You will recall that during the course of the Committee's consideration of H.R. 13615, a bill to amend the CIA Retirement and Disability Act, the Committee noted in its report that in administering this Act during recent years, the Agency may have deviated in some respects from the original intent of Congress. The Committee, in the exercise of its oversight function, directed the Agency to conduct a careful analysis of the application of the qualifying provisions of section 203 of this Act in designating participants, and that I should report the results of this analysis to the Committee by 1 October 1976 and annually thereafter. This letter transmits that report.

In implementing the Committee's directive, it was my aim to ensure that the review of the Agency's administration of the Act was conducted as objectively and carefully as possible. Thus, we chose not to use Agency officers to conduct the study, but instead an outside person who would have no personal or professional interest in the outcome of the study. In this effort we were fortunate in being able to engage Mr. Andrew E. Ruddock to conduct the study.

Mr. Ruddock retired from the Federal Government in December 1973 after 34 years of outstanding service. For many years prior to his retirement, he was Director, Bureau of Retirement and Insurance, Civil Service Commission. Not only is he an acknowledged expert in the field of retirement, but his reputation for honesty, integrity and executive ability is widespread throughout Government, and especially

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in the Congress. It is noteworthy that upon the occasion of his retirement, many testimonials were inserted into the Congressional Record in tribute to his professional abilities, candor and helpfulness to the Congress, especially to the House and Senate Committees on Post Office and Civil Service.

Mr. Ruddock's report is submitted herewith for review by members of the Committee and your staff. Mr. Ruddock has concluded that the Agency has administered the CIA Retirement System essentially within the intent of Congress and the law which authorized this system.

Mr. Ruddock's report makes clear that on the matter of designating employees as participants in the system, the legislative history reflects that while types of service that could lead to impairment or future usefulness may justify retirement under the system, this is not a requirement for each individual retirement case. The legislative history recognizes and the law permits voluntary retirement at early ages (no doubt in some cases before impairment detracts from performance or usefulness), and the law recognizes that many careers will not be impaired at all and may continue to the statutory mandatory retirement age.

Mr. Ruddock's report discusses in some detail the Agency practice, authorized by its regulations, of designating employees as participants after 18 months of qualifying service. You may recall that this procedure was of particular concern to Congressman Stratton of the Committee. Mr. Ruddock notes, however, that this form of designation is only an initial designation; full and final vesting as a right to actual retirement under the System is made only at the completion of the attainment of 60 months of qualifying service and the completion of 15 years with the Agency. Nonetheless, in his examination of our procedures for designating participants and for periodic reviews of their eligibility to remain as participants, Mr. Ruddock found these administrative steps to be time consuming and of no advantage to either the Agency or the employee involved. He suggests that an employee be designated only once and when he has attained the full 60 months of qualifying service, and we plan to accept his view on this.

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Mr. Ruddock's report cites two possible deviations in the designation of participants. One was the result of a temporary liberal approach in 1968-1969 to crediting some domestic service as qualifying service for a limited number of retirements. In 1968 the Agency faced a need to reduce total strength and, at the same time, faced the problem of freeing personnel spaces in order to permit new hiring. Somewhat by coincidence, it found that the quota of 400, fixed by Congress as the number of retirements, was not going to be fully used. Consequently, the Agency liberalized its judgment as to what constituted domestic qualifying service. Mr. Ruddock points out, however, that only 58 domestic service cases were approved during this period of time -- still leaving unused quota -- and that many of the 58, perhaps as many as half, would have been approved without any relaxation of the application of the criteria. Even in these cases, he found that the Agency required specific demonstration that the type of service performed by the employee was within the law and regulations; but it accepted a lesser degree of hazard and less stringent security requirements and adopted a more tolerant view of what kinds of Agency service made it difficult for a retiree to obtain other employment.

The second deviation that he notes is the result of applying too restrictive an approach in the use of criteria in section 111(3) of the Act. That section of the law reads:

"Qualifying service" means service performed as a participant in the system or, in the case of service prior to designation, service determined by the Director to have been performed in carrying out duties described in section 203.

Mr. Ruddock points out that all designations made by the Agency were made under the second criterion in the above definition of qualifying service and that the Agency has never given credit for all service performed as a participant. He construes this as a restrictive practice by the Agency and clearly points out that steps should be taken to conform practice to the law. We believe that our plan to change Agency regulations to require designation only after completion of 60 months of qualifying service takes care of this concern.

In his analysis Mr. Ruddock concludes that the CIA Retirement and Disability System has been a very useful tool of Agency management and has served the purposes articulated by the Congress and the Agency in its early design and enactment. I am greatly comforted by his conclusion on page 99 of his report that except for the 1968-1969 relaxation and the restrictive policy applied to the qualifying of domestic service, he could find no deviations from basic policy adopted in the original implementation of the CIA Retirement and Disability System.

I and members of my staff will be happy to meet with you and members of the Committee to respond to questions you may have. Mr. Ruddock has also expressed his willingness to appear before the Committee to respond to questions concerning the scope and substance of his report.

Sincerely,

/s/ George Bush

George Bush
Director

Enclosure

Analysis of Designation of Participants
Under Section 203 of the CIA Retirement Act
by Andrew E. Ruddock

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CENTRAL INTELLIGENCE AGENCY

WASHINGTON, D.C. 20505

6 OCT 1976

Honorable Melvin Price, Chairman
Committee on Armed Services
House of Representatives
Washington, D. C. 20515

Dear Mr. Chairman:

You will recall that during the course of the Committee's consideration of H.R. 13615, a bill to amend the CIA Retirement and Disability Act, the Committee noted in its report that in administering this Act during recent years, the Agency may have deviated in some respects from the original intent of Congress. The Committee, in the exercise of its oversight function, directed the Agency to conduct a careful analysis of the application of the qualifying provisions of section 203 of this Act in designating participants, and that I should report the results of this analysis to the Committee by 1 October 1976 and annually thereafter. This letter transmits that report.

In implementing the Committee's directive, it was my aim to ensure that the review of the Agency's administration of the Act was conducted as objectively and carefully as possible. Thus, we chose not to use Agency officers to conduct the study, but instead an outside person who would have no personal or professional interest in the outcome of the study. In this effort we were fortunate in being able to engage Mr. Andrew E. Ruddock to conduct the study.

Mr. Ruddock retired from the Federal Government in December 1973 after 34 years of outstanding service. For many years prior to his retirement, he was Director, Bureau of Retirement and Insurance, Civil Service Commission. Not only is he an acknowledged expert in the field of retirement, but his reputation for honesty, integrity and executive ability is widespread throughout Government, and especially

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Impossible to determine



in the Congress. It is noteworthy that upon the occasion of his retirement, many testimonials were inserted into the Congressional Record in tribute to his professional abilities, candor and helpfulness to the Congress, especially to the House and Senate Committees on Post Office and Civil Service.

Mr. Ruddock's report is submitted herewith for review by members of the Committee and your staff. Mr. Ruddock has concluded that the Agency has administered the CIA Retirement System essentially within the intent of Congress and the law which authorized this system.

Mr. Ruddock's report makes clear that on the matter of designating employees as participants in the system, the legislative history reflects that while types of service that could lead to impairment or future usefulness may justify retirement under the system, this is not a requirement for each individual retirement case. The legislative history recognizes and the law permits voluntary retirement at early ages (no doubt in some cases before impairment detracts from performance or usefulness), and the law recognizes that many careers will not be impaired at all and may continue to the statutory mandatory retirement age.

Mr. Ruddock's report discusses in some detail the Agency practice, authorized by its regulations, of designating employees as participants after 18 months of qualifying service. You may recall that this procedure was of particular concern to Congressman Stratton of the Committee. Mr. Ruddock notes, however, that this form of designation is only an initial designation; full and final vesting as a right to actual retirement under the System is made only at the completion of the attainment of 60 months of qualifying service and the completion of 15 years with the Agency. Nonetheless, in his examination of our procedures for designating participants and for periodic reviews of their eligibility to remain as participants, Mr. Ruddock found these administrative steps to be time consuming and of no advantage to either the Agency or the employee involved. He suggests that an employee be designated only once and when he has attained the full 60 months of qualifying service, and we plan to accept his view on this.

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Mr. Ruddock's report cites two possible deviations in the designation of participants. One was the result of a temporary liberal approach in 1968-1969 to crediting some domestic service as qualifying service for a limited number of retirements. In 1968 the Agency faced a need to reduce total strength and, at the same time, faced the problem of freeing personnel spaces in order to permit new hiring. Somewhat by coincidence, it found that the quota of 400, fixed by Congress as the number of retirements, was not going to be fully used. Consequently, the Agency liberalized its judgment as to what constituted domestic qualifying service. Mr. Ruddock points out, however, that only 58 domestic service cases were approved during this period of time -- still leaving unused quota -- and that many of the 58, perhaps as many as half, would have been approved without any relaxation of the application of the criteria. Even in these cases, he found that the Agency required specific demonstration that the type of service performed by the employee was within the law and regulations; but it accepted a lesser degree of hazard and less stringent security requirements and adopted a more tolerant view of what kinds of Agency service made it difficult for a retiree to obtain other employment.

The second deviation that he notes is the result of applying too restrictive an approach in the use of criteria in section 111(3) of the Act. That section of the law reads:

"Qualifying service" means service performed as a participant in the system or, in the case of service prior to designation, service determined by the Director to have been performed in carrying out duties described in section 203.

Mr. Ruddock points out that all designations made by the Agency were made under the second criterion in the above definition of qualifying service and that the Agency has never given credit for all service performed as a participant. He construes this as a restrictive practice by the Agency and clearly points out that steps should be taken to conform practice to the law. We believe that our plan to change Agency regulations to require designation only after completion of 60 months of qualifying service takes care of this concern.

In his analysis Mr. Ruddock concludes that the CIA Retirement and Disability System has been a very useful tool of Agency management and has served the purposes articulated by the Congress and the Agency in its early design and enactment. I am greatly comforted by his conclusion on page 99 of his report that except for the 1968-1969 relaxation and the restrictive policy applied to the qualifying of domestic service, he could find no deviations from basic policy adopted in the original implementation of the CIA Retirement and Disability System.

I and members of my staff will be happy to meet with you and members of the Committee to respond to questions you may have. Mr. Ruddock has also expressed his willingness to appear before the Committee to respond to questions concerning the scope and substance of his report.

Sincerely,



George Bush
Director

STATINTL

Enclosure

Analysis of Designation of Participants
Under Section 203 of the CIA Retirement Act
by Andrew E. Ruddock

ANALYSIS OF DESIGNATION OF PARTICIPANTS
UNDER SECTION 203 OF THE CIA RETIREMENT ACT

A Report to the DCI

by

Andrew E. Ruddock
August 1976

NATIONAL SECURITY INFORMATION
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date impossible to determine
(unless impossible, insert date or event)

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August 30, 1976

Honorable George Bush
Director of Central Intelligence
Washington, D. C. 20505

Dear Mr. Bush:

The report submitted herewith is an analysis of the Agency's application of the Director's authority to designate employees for participation in the Central Intelligence Agency Retirement and Disability System. It was prepared to aid CIA in responding to a directive of May 14, 1976 from the Committee on Armed Services of the House of Representatives.

Agency personnel at all levels facilitated the conduct of this study. All files and records having a bearing on the administration of CIARDS were made available. No effort was made, either directly or by implication, to influence the course of the study or its findings or conclusions.

I found the Agency's exercise of the discretion to designate CIARDS participants to be of consistently high quality, with due concern that determinations of what service is qualifying conform to the law, the regulations, and the intent of Congress as the Agency understands that intent.

This does not imply that perfection has been achieved throughout the nearly twelve years of experience since the CIA Retirement Act was enacted in 1964. Given the opportunity to start over, not every case would be decided the same way, as is to be expected when decisions are largely in an area of subjective judgment and a recommendation is made in each case by a Retirement Board that has had turnover in membership over the years.

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This report suggests that the concerns expressed by the Committee may indicate lack of agreement with some of the Agency's long-established basic policies, such as (1) crediting all overseas service as qualifying regardless of location or type of duties, and (2) approving retirements without requiring a finding that the employee's services are impaired for future use by the Agency.

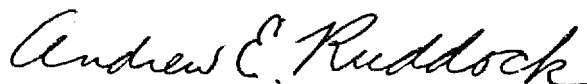
The Agency should reduce to writing some of the considerations used by the Retirement Board to determine whether periods of domestic service are qualifying. These determinations are largely subjective and the Board relies heavily on members' recollections of precedent cases. A suggestion made by [REDACTED] Deputy Inspector STATINTL General, has considerable merit. He suggests the writing of narrative descriptions of domestic service that are qualifying, and of service that is not, for use in promoting better employee understanding and in handling appeals.

In the course of the hearing that led to the directive for this analysis, Congressman Samuel S. Stratton suggested that employees be designated for participation in CIARDS only after they have completed at least five years of qualifying service. If approved, the Agency could eliminate the process of early designation and periodic review of participants, and reduce the number of transfers and retransfers of money between the CIARDS and Civil Service Retirement funds. It is recommended that this change be made unless it would result in a CIARDS fund balance insufficient to pay benefits as they become due.

The definition of "qualifying service" found in the Agency's regulations does not give any recognition to the provision of the law that qualifies "all service performed by a participant in the system." This discrepancy can be corrected for the future by a change in the regulations.

The experience of conducting this analysis has been challenging and stimulating, and I thank you for the assignment.

Sincerely yours,



Andrew E. Ruddock

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PART I
OVERVIEW

Why this Analysis was Undertaken

In its report of May 14, 1976 on the Bill HR 13615, the Committee on Armed Services of the House of Representatives included the following:

"When the CIA Retirement Act was originally considered by Congress in 1964 particular attention was focused on section 203 of the Act, which authorizes the Director to designate 'such Agency officers and employees whose duties are determined by the Director to be (i) in support of Agency activities abroad hazardous to life or health or (ii) so specialized because of security requirements as to be clearly distinguishable from normal government employment, hereafter referred to as participants, who shall be entitled to the benefits of the system'. Essentially, that provision was the basis for creating a separate retirement system and it was the intent of Congress that this system should apply to the relatively small percentage of Agency employees who were actually subjected to these very special hazards.

"During the course of consideration of this legislation there have been indications that in recent years there may have been deviations on the part of the Agency in administering this separate system from a strict application of the provisions of section 203 in designating officers and employees as participants in the CIA retirement system in line with the original intent of Congress when that system was created.

"Accordingly, in the exercise of its oversight function the Committee has directed that the CIA conduct a careful analysis of the application of the qualifying provisions of section 203 of the CIA Retirement Act in designating participants with reference to the special circumstances justifying their inclusion, and that the results of such analysis be reported to the Committee by the Director of Central Intelligence not later than October 1, 1976, and on an annual basis thereafter."¹

How the Study was Conducted

The author of this analysis was given unrestricted access to all the files and records of the Central Intelligence Agency having any bearing on the Agency's administration of the CIA Retirement and Disability System.

Extensive reading of the legislative history, of minutes and verbatim transcripts of meetings of the CIA Retirement Board, and of internal Agency letters and memoranda gave a broad view of the Agency's approach to exercise of its discretion to designate participants. This reading also furnished insight into many of the problems faced both policy and procedural, and of the solutions adopted.

All written opinions of the General Counsel relating to CIARDS were studied, and their influence on policy appraised.

Attendance at meetings of the Retirement Board provided an insight into the actual functioning of this group in arriving at its recommendations, and allowed the written records of meetings over the years to be put into better perspective.

Available records and statistical data were studied, and new data were developed by collection of information from original sources, in order to present quantitatively some of the results of the Agency's experience.

Finally, discussions with numerous present and past officials, historical tapes of interviews with those who

participated in the origination and implementation of CIARDS, and innumerable informal question and answer sessions with Agency personnel at all levels helped to put it all together.

Objectives of the Study

The study is aimed primarily at the Agency's determinations in designating employees for participation in the CIA Retirement and Disability System. It inquires into the legislative background and the Agency's procedures and policies, and looks at some of the end results of the Agency's administration.

The report explores a series of questions, some of which were asked or implied at the hearing on HR 11088 preceding the Committee's request for the analysis. Others suggested themselves as the study progressed.

Organization

This report is divided into six parts, including Part I, Overview, to which this introductory material belongs. The other divisions are:

Part II Congressional Concern for Limited Participation

Part III Agency Procedures and Policies

Part IV Quantitative Results of Agency Administration

Part V Some Questions Explored

Part VI Conclusion

PART II

CONGRESSIONAL CONCERN FOR LIMITED PARTICIPATION

The Committee's concern as stated in its directive is a further expression of a long-standing and continuing congressional interest in the selection of certain CIA employees to be participants in the more liberal retirement system authorized in 1964 for a restricted class of Agency personnel described in Section 203 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees.

Early Consideration by the House

Although various approaches toward a separate retirement system for CIA personnel had been explored beginning as early as 1950, discussions within the Executive Branch and consultations with individual members of Congress had made it quite clear that a new and more liberal system could be authorized only if it were restricted to those CIA employees whose duties were clearly distinguishable from normal government employment. A legislative proposal submitted to the Congress in 1962 would have authorized the Director to establish a retirement system, similar to the Foreign Service Retirement System, for such officers and employees "as he may designate from time to time." The bill, introduced as HR 12923, contained no restrictions on the authority to designate.

During a hearing in executive session, on HR 12923 on August 28, 1962, Mr. Vinson, Chairman of the House Committee on Armed Services asked for a revised bill that would write in all of the provisions of a new and independent retirement system. The new bill, introduced June 24, 1963 by Mr. Vinson as HR 7216, still contained unrestricted authority for the Director to designate officers and employees as participants.

Four Days of Hearings

Hearings in executive session on HR 7216 (on July 23, 24, and 25, and September 11, 1963) established very clearly the concern of the Committee on Armed Services, Subcommittee No. 1, that restrictions should be placed on the authority of the Director to decide which Agency employees would be covered by the new retirement system. That the system was not intended for all Agency employees, is indicated by the following, not necessarily given in sequence or in context, but all bearing on the question of participation.

This presentation is lengthy, but is included as the best indication of the original understanding between the Congress and the Agency as to who would be in the new system.

It should be remembered that this was not a debate between two or more opposing viewpoints carefully worked out in advance and presented in precise language. Rather, it represents give and take, often loosely worded and obviously at times not carefully considered. It is the process by

which the authority of the Director to designate participants evolved from originally unrestricted discretion to a hammered-out set of rough criteria to guide but not eliminate his exercise of discretion.

It is quite reasonable that reasonable men could read the legislative history, or even have participated personally in the legislative process, and reach different conclusions as to the extent of the discretion given to the Director of Central Intelligence and the criteria by which he would be guided in making his determinations. The debate on the bill is varied enough to provide support to a wide range of viewpoints.

Some excerpts from the hearings on HR 7216 follow:

p. 5783. Mr. Rivers¹ described the bill as being for a limited number of Agency employees.

p. 5800. General Carter² said, "A limited number of employees of the Agency are exposed to precisely the same conditions of service as the Foreign Service."

p. 5184 and 5815. General Carter agreed that the new system was intended partly to help solve the problem of people selected out, but stated the major purpose was for

-
1. Honorable L. Mendel Rivers, Chairman of the Subcommittee.
 2. Lt. Gen. Marshall S. Carter, Deputy Director of Central Intelligence.

an employee who, because of the nature of his occupation, had at age 50 "passed beyond the ability to work for which we have a requirement." "This is not our entire personnel strength. . . it is a maximum of [REDACTED] of our people."

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p. 5828. Congressman Hardy asked what percentage of CIA employees would be covered by the new system. General Carter answered, "between [REDACTED] percent." Mr. Hardy then asked, "What kind of guidelines or statutory guidelines are going to be provided to keep everybody in CIA from being eligible for this kind of coverage?" No answer was given.

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p. 5828 and 5829. Mr. Blandford¹ brought up the problem of coverage in a system where personnel are shifted from one kind of activity to another, i.e., from overseas to an assignment in Washington.

p.5830. Congressman Hardy, ". . .of course you are giving the Director the right to do almost anything he wants to." Congressman Rivers agreed.

Mr. Blandford, "I can certainly appreciate why the language in the bill has to be fairly broad. There will be problems come up here that if you attempted to contest it by law it would be almost unermountable, if you tried to solve every problem."

1. Russell Blandford, Committee Counsel.

Congressman Rivers, "Right, you have to have a lot of discretion."

Mr. Blandford also made the following pertinent comments which are in the classified transcript but do not appear in the printed record of the hearings:

"Now you tell us that there will be a maximum of [REDACTED] people . . . the agents that are available for clandestine operations. . . . What is to prevent the Director from rotating practically every employee in the CIA in some type of cover capacity? . . . You can't very well say that duty as a CIA agent [REDACTED] is dangerous. Obviously, it is not dangerous per se."

25X9

p. 5830. Congressman Hardy: "If this thing becomes law as it is, it won't be very long before everybody in CIA will be covered by this program."

Mr. Blandford: "The only way you can control it is by faith in the Director, really, and asking the Director to report back to the Congress the number of people who are in the program."

p. 5838. General Carter again indicated the bill was for a limited number of people, not over [REDACTED] percent. Mr. Hardy then commented, "if this is put into effect, you wouldn't have many CIA directors before the thing would cover everybody in CIA."

25X9

p. 5844. General Carter outlined Agency plans for designating participants as follows:

"Mr. Chairman, we have necessarily deviated from the terms of the Foreign Service Act which applies to all Foreign Service officers, since only a limited number of Agency employees will serve under conditions which will warrant their retirement under this law rather than under normal civil service retirement. And those who are to be designated as participants pursuant to this action will undergo a rigid selection process.

This system is designed for those officers whose career over the years are predominantly concerned with the conduct and support of intelligence activities in foreign countries.

It is intended to designate an employee as a participant in this system at the earliest time after he has gained full career employee status in the Agency.

The earliest time that it can be determined that his career field of work is in the conduct and support of intelligence activities in foreign countries.

Thereafter, his service record will be reviewed periodically to verify that his career has remained in this field and that he is in fact performing qualifying service for sufficient periods of time to warrant his continued designation as a participant.

If on such review it should be determined that an officer's career specialization has permanently shifted to a different field, he will be transferred to the civil service retirement system.

However, when an employee who has been designated as a participant has met all of the minimum requirements for retirement under this system and then shifts to another field of career specialization, he would ordinarily be viewed as having acquired a right to the benefits he has already qualified for and earned under this system, and would be permitted to remain in it.

These criteria will, as I have indicated, be established by the Agency retirement board and then must be approved by the Director."

p. 5860. Mr. Blandford suggested that the title of the bill be amended to indicate that the CIA retirement system would apply to a limited number rather than to all Agency employees.

p. 5862. Congressman O'Neill, referring to the language in Section 203 which makes a qualified employee with fifteen years of service a permanent participant in the new retirement system said:

"This would ensure that an individual in the system who has had 15 years of service would know at that time that he was not in any danger of being moved out of the system."

He further stated that those to be designated as participants would undergo a rigid selection process.

In the course of the four days of hearings on HR 7216, CIA officials presented actual case histories which demonstrated the need for the proposed new retirement system. As would be expected, none of these were borderline or questionable cases, but were clear-cut examples of high adventure, patriotic performance of duties under the most dangerous circumstances, and of illness, injury, imprisonment, and death incurred in the nation's service. They provided excellent justification for the legislation, but did nothing to clarify the criteria for designating participants.

Full Committee Action

The final result of the four days of subcommittee hearings on HR 7216, plus an executive session of the full committee, was a clean bill, HR 8427, favorably reported by the House Committee on Armed Services on September 24, 1963. In contrast to the unrestricted authority contained in the original bill for the Director to designate employees for participation in the proposed new retirement system, the reported bill contained:

1. A title indicating the CIA Retirement system was for "certain employees."
2. Language in Section 201 stating the system was for a "limited number of employees."
3. Language in Section 203 to permit a qualified employee after 15 years of Agency service to elect to remain permanently in the CIA retirement system.

25X9 The deliberations of the full Committee included recognition that the new retirement system was intended for about [REDACTED] percent of CIA employees, to be designated by the Director with a considerable amount of flexibility and discretion, but in general in accordance with understandings by the Committee and the Agency that the system would be for employees whose careers are primarily oriented

toward the conduct and support of intelligence activities abroad, and not for the average employee in a routine non-hazardous job in Washington.

The Rules Committee

Before granting a rule on the bill HR 8427, the House Rules Committee expressed concern about the absence of criteria or limitations on the authority of the Director to designate participants. They obtained Mr. River's agreement to present a floor amendment defining in some degree the types of people to be covered by the system.

Congresswoman Katharine St. George, Mr. Russell Blandford, Counsel of the House Armed Services Committee, General Carter, Deputy Director of Central Intelligence, and [REDACTED] Legislative Counsel for the CIA, met and worked out the language for the amendment.

[REDACTED] written recollection of that meeting includes the following:

"On 10 October 1963 General Carter and I met with Mrs. Katharine St. George, and after considerable discussion language was proposed which subsequently became the first sentence of Section 203 as follows:

'The Director may designate from time to time such Agency officers and employees whose duties are determined by the Director to be (i) in support of Agency activities abroad hazardous to life or health or (ii) so specialized because of security requirements as to be clearly distinguishable from normal government employment, hereafter referred to as participants, who shall be entitled to the benefits of the system.'

Mr. Rivers the previous day had stated to Mrs. St. George that he was sure some words could be put in to refer to hazardous duty. In the meeting of the 10th with Mrs. St. George, we explained very carefully that we did not want statutory criteria limiting us to hazardous duty or to overseas duty. We explained to her that there would be situations where purely domestic service would in our opinion fit into the concept of qualifying service, as we had explained it to the House Subcommittee considering the legislation. We discussed two types of cases:

"a. Where actual duties were so unique that they could not be adequately described to a prospective employer and where the skills were not readily marketable, and

"b. Situations where individuals because of security considerations involving cover within the United States rendered the individual's services and his personal life unlike normal Government employment.

Mrs. St. George accepted our argumentation and then cleared the proposed language by telephone with Mr. Delaney, another member of the Rules Committee (apparently these two had been delegated by Chairman Smith to act for the Rules Committee in this regard). At this meeting on 10 October 1963 there was also present Russell Blandford, Counsel of the House Armed Services Committee, who was there acting for Mr. Rivers.

" Thereafter on 30 October 1963 on the floor of the House Mr. Rivers offered the amendment as had been agreed to by Mrs. St. George. Just prior to the amendment being offered by Mr. Rivers, Mrs. St. George spoke for the favorably reported resolution to permit floor debate and commented on the amendment which would be offered. Unfortunately, she stated that this amendment would 'make a differential between people who are performing simply ordinary duty in CIA and those who are indeed on hazardous occupations.' This statement is obviously incomplete in line with the actual discussions with her, and in fact is not fully consistent with the wording of the amendment."

Floor Debate

In the same floor speech, Mrs. St. George also said,

"The Armed Services Committee hearings and the report on HR 8427 stressed that only those employees engaged in the conduct and support of intelligence activities, meaning hazardous duty or service in foreign countries, will be eligible for an improved retirement and disability program."¹

Congressman Gross offered an amendment to limit the bill to employees whose duties are hazardous to life or health. This amendment was defeated by a 20 to 67 vote.

Congressman Jones offered an amendment, which was adopted, to require that rules and regulations to be prescribed by the Director would not become effective until they were approved by the chairmen and ranking minority members of the Armed Services Committees of the House and Senate.

Congressional Intent Summarized

Congressman Rivers, in offering the amendment which was later adopted as the first sentence of Section 203, gave an extensive description of types of employees to be covered as follows:²

"Mr. Chairman, the purpose of this amendment is to establish legislative criteria by which the Agency would determine those employees who would become participants in this system. The committee during hearings examined very carefully the question of what type of employees should be covered and which employees should remain under normal civil service retirement.

1. Page 19588, Congressional Record, October 30, 1963.

2. Page 19680, Ibid.
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"It was made clear that the purpose was to cover only career employees whose duties and responsibilities are predominantly concerned with the conduct and support of intelligence activities in foreign countries. It was also developed in the hearings, and with actual cases as examples furnished in executive sessions, that career employees whose duties are so specialized that they are placed at an unusual disadvantage when required to seek other employment would also be covered by this system.

"A significant number of these actual cases were furnished the committee in the executive hearings to illustrate the types of employees who would be covered. One of the threads running through these cases was the hazard both to person and to health. Employees as well as their dependents have contracted diseases which would rarely, if ever, be found in the United States. We heard about cases where employees were wounded or killed by gunfire, and in some cases imprisoned.

"In certain phases of the Agency's activities there are requirements for unusual specialties requiring long years of arduous training for which skills there could be no utilization in normal employment pursuits.

"We learned of certain situations where, through no fault of the employee, his skills and he himself, became excess to the needs of the Agency or for certain reasons he could no longer be utilized effectively by the Agency. These are the people who will be covered--not the clerk, analyst, or researcher who spends his career in Washington.

"In furtherance of the objective of concisely stating these criteria and furnishing statutory guidelines to the Director in selecting participants without at the same time imposing undue rigidity, language has been developed which is satisfactory to those members with whom I have consulted and is also agreeable to other members of the Armed Services Committee with whom I have consulted."

Comment on Summary of Congressional Intent

Mr. Rivers' description of the types of employees to be covered by the new retirement system is the most authoritative source for determining the intent of Congress. It is a distillation and a summary of four sessions of hearings before the Subcommittee plus one before the full Committee. Considerably more weight should be given to this carefully worded description, well thought out in advance of its presentation on the floor of the House, than to any of the shot-from-the-hip remarks, or questions or answers that occurred during the hearings.

Senate Concern

Congressional concern that the CIA Retirement and Disability System would be available to a limited number of Agency employees in a special kind of career was further demonstrated by two amendments to the House-passed HR 8427 made by the Senate Committee on Armed Services. A definition of "qualifying service" as service performed by a participant, or in the case of service prior to designation, service in carrying out the types of duties described in Section 203 was approved, and a quota of 400 non-disability retirements was imposed for the period ending June 30, 1969, and a like limitation of 400 for the following five-year period.

The report on HR 8427 from the Senate Committee on Armed Services, Report No. 1589, 88th Congress, 2nd Session,

described the objectives of the bill thusly:

(1) "It will minimize the adverse effect of the early retirement on the individuals for whom the Agency is unable to provide full term careers, and

(2) it will serve as a management tool for attracting high caliber personnel to meet the specialized needs of this program."

It restated the Agency estimate that about [REDACTED] percent of employees would qualify for participation. It described the process of designation and periodic review for continued participation, and the election of a fully qualified employee to remain in the system.

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Enactment of Section 203

The bill as reported out of committee passed the Senate, without floor amendment, on September 25, 1964. The House concurred in the Senate amendments, and gave final Congressional approval on October 1, 1964. The President signed the enactment, treating the provision that Agency regulations be approved by the Chairmen and ranking minority members of the House and Senate Armed Services Committees as a request for consultation rather than an unconstitutional invasion of the powers of the Executive Branch.

Thus, the CIA Retirement and Disability System including Section 203 came into being on October 14, 1964.

1973 Concern of Congress

In 1973 CIA sought legislation to increase, from 800 to 2100, the limitation on the number of non-disability retirements authorized through June 30, 1974. Both the House and Senate Committees used the hearings on this legislation to review the purposes of the CIA Retirement and Disability System and to inquire into the Agency's exercise of discretion in designating participants in the system. Mr. Stratton¹ once again recognized the "hump" problem of employees who came on board shortly after World War II.²

At both the House and Senate Hearings, Dr. James Schlesinger, then Director of Central Intelligence, discussed at some length the use of CIARDS as a management tool, and of early retirements as a means of creating spaces to bring in a "continuing infusion of new blood - youthful energy and enthusiasm, new innovations to supplant old habits and - perhaps most important - new ideas to challenge obsolescent assumptions."³

The Senate Committee on Armed Services explored qualifying service, and elicited testimony from Dr. Schlesinger

1. Honorable Samul S. Stratton, Dem., N.Y.

2. House Armed Services Committee, HASC No. 93-8.

3. Page 4, HASC No. 93-8.

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that since 1964 the Agency has counted all overseas service without distinctions based on location of post or type of duties. He was not at all specific with respect to domestic services, describing it only as "other types of hazardous duties which would permit eligibility under the system."¹

1. Page 9, Hearings on HR 6167, Senate Committee on Armed Services.

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PART III

AGENCY PROCEDURES AND POLICIES

Agency Concern for Limited Participation

In asking the Congress to establish a new retirement system for the Central Intelligence Agency, officials from the beginning indicated their intent to have a system applying to only a limited number rather than all Agency employees. Throughout the hearings in both the House and the Senate they indicated their concern that the system be administered in accordance with this concept and in line with principles expressed by members of the House and Senate during the debate.

As soon as the legislation was passed the Agency proceeded to put into effect the kind of system it had promised the Congress. Regulations were written specifying, in more detail than the law had provided, the kinds of service that would be considered qualifying. To obtain an objective appraisal of these regulations it presented the legislative history to three prominent attorneys in private practice and asked their opinion as to whether the regulations conformed to the terms of the law and the intent of Congress as expressed in the legislative history. The regulations were submitted to the chairmen and ranking minority members of the Armed Services Committees of the House and Senate to fulfill the provision of law requiring their approval

before the regulations could go into effect. In addition to approval by the committee representatives, the regulations were submitted to the Bureau of the Budget and cleared by that agency.

Most of the Directors of Central Intelligence have taken a personal interest in the Agency's exercise of discretion in designating participants. Director McCone testified on the original legislation in 1963. Director Helms was a witness at the original hearings and later, when he became Director, had an extended briefing by the Retirement Board as well as memoranda to keep him informed of the status of administration of the retirement system. Director Schlesinger became very well informed of the provisions of the system and of the manner in which the Agency was administering it before he testified at the 1973 hearings asking for an increase in retirement quota. Director Colby, through staff papers and discussions with officials, was intimately aware of how the Agency was carrying out this phase of its activities.

As one of the first Agency actions to implement the 1964 legislation, Director McCone appointed a CIA Retirement Board to advise the Director of Personnel and himself on matters arising under the new retirement system. This Board was composed of representatives of each of the directorates, all officials at a supergrade level. In its early deliberations, which consisted in large part of trying to structure the system in conformance with its understanding

of the intent of Congress, it had the advantage that its Chairman, its Technical Adviser and its Legal Adviser had all participated in and sat through the four days of hearings before the House Armed Service Committee in which the criteria for qualifying service were developed. These persons and other original members have been replaced one at a time, but the Board has had the advantage of a continuity of membership which provides for considerable consistency in the exercise of its subjective judgments. One of the original members of the Board still serves in that capacity.

The CIA Retirement Board had its 278th meeting on August 12, 1976. It still recommends the designation for participation and the retirement of every employee based on overseas service. It still considers every request for approval of domestic service, asks for whatever details it considers necessary to reach a judgment and recommends approval or disapproval.

Procedures for Designation and Review

The Agency has rather elaborate and detailed procedures through which it screens employees for participation in the CIA Retirement and Disability System (CIARDS) and decides whether they will be continued in that system. The procedures operate generally as described hereafter.

1. New Employees

All new employees coming on board in CIA are automatically members of the Civil Service Retirement System (CSR), just as are the employees of any other agency, unless their employment is to be temporary or intermittent. Employees excluded from CSR are under the Social Security System (FICA).

The Agency maintains computer data on all employees. Combinations of monthly and quarterly runs from the computer facilitate identification of retirement status and permit periodic screening to evaluate initial and continued eligibility for participation in CIARDS.

2. At Five Years of Agency Service

Each career service reviews a quarterly computer listing that shows the overseas service for each of its employees age 25 or older who has completed five years of CIA service within the quarter. The head of the career service may recommend an employee for participation in CIARDS if he is a United States citizen, at least 25 years of age, and has at least 18 months of overseas service, using the following language:

"Based on his career assignment and prospective performance of qualifying service, this employee is recommended for designation as a participant in the CIA Retirement and Disability System. He is serving in a career field which normally requires the performance

of qualifying service as an integral
part of a career in that field."

The Retirement Board then recommends his participation and the Director of Personnel, acting for the Director of Central Intelligence, designates the employee as a participant in CIARDS. This designation is reflected in a formal personnel action transferring him from the Civil Service Retirement System to the CIA Retirement and Disability System and the employee is notified. An employee is not designated unless he signs a "Service Agreement," which is a written obligation to serve anywhere at any time according to the needs of the Agency.

As part of the review of 5 year employees, each career service identifies employees who do not qualify for participation. Ineligible employees are notified of their right to submit additional information, to appear before the Board, and to appeal an adverse decision. The records of ineligible employees are reviewed annually and those who have acquired the necessary qualifying service are nominated and designated.

3. At Ten Years of Agency Service

The Executive Secretary of the Retirement Board reviews quarterly listings of CIARDS participants who have completed 10 years of CIA service within the quarter. Those who have at that point completed at least 36 months of overseas service are automatically continued in the System.

The records of those who have less than 36 months of overseas service are reviewed by the appropriate career service, which either concurs or furnishes additional information for consideration.

The Retirement Board then considers and recommends removal from the System, for those who have less than 36 months of qualifying service, unless there is a strong reason for continued participation such as a current or prospective overseas assignment that will soon qualify the employee. Before the Board makes a recommendation for removal from the System, the employee is notified of his right to furnish additional information, to appear in person, and to appeal an adverse decision. The Director of Personnel acts on the recommendation of the Board, and removes from CIARDS participation employees who have not continued to qualify.

4. At Fifteen Years of Agency Service

Essentially the same review process takes place when CIARDS participants have completed 15 years of CIA service. Those who have completed at least 60 months of qualifying service are considered for permanently qualified status unless the appropriate career service recommends otherwise for a reason such as refusal by the employee to honor his obligation to serve anywhere at any time. The Director of Personnel makes the decision that an employee is permanently qualified. The employee then makes an irrevocable election

whether to continue in CIARDS or to transfer back to the less liberal Civil Service Retirement System.

5. Domestic Qualifying Service

An employee may at any time allege that he has domestic service that is qualifying within the Agency's regulations. Some allegations are made at the point of 10 year review, and some at the 15 year review. Most, however, are made later when the employee nears or reaches 25 years of service or the combination of age 50, with 20 years service which permits retirement for qualified CIARDS participants.

The employee alleging qualifying domestic service presents a statement of where and when the service was performed and the circumstances that he believes brings it within the regulations. His career service concurs or reports negatively and may or may not furnish more information.

The Retirement Board considers and may give the employee an opportunity to give additional evidence in writing or in person. The Board may also get advice or information from the appropriate career service or from an expert in any specialized field.

The Board then recommends whether it considers the alleged domestic service to be qualifying, and the Director of Personnel makes the decision. An employee may appeal an adverse decision.

6. Appeals

As previously indicated, an employee may appeal to the Director any adverse decision concerning his participation in CIARDS. His appeal, in writing, is first considered by the Inspector General. After investigation into the facts and circumstances, the IG gives the Director of Central Intelligence his report and recommendation, including the views of the Director of Personnel, the General Counsel, or other appropriate officials. The final decision is made by the DCI and the employee is notified.

Agency Regulations

Section 203 of the CIA Retirement Act of 1964, which was intentionally written in vague terms designed to guide but not overly restrict the exercise of the broad discretion given to the Director, says:

"The Director may designate from time to time such Agency officers and employees whose duties are determined by the Director to be (i) in support of Agency activities abroad hazardous to life or health or (ii) so specialized because of security requirements as to be clearly distinguishable from normal government employment; hereafter referred to as participants, who shall be entitled to the benefits of the system. . ."

The Agency adopted regulations which tried to put some meat on the bare bones of the law but without being specific to the point of unnecessarily limiting the Director's broad discretion. These regulations were written without the benefit of any experience in evaluating the exact nature of

an employee's service and turned out to be almost more confusing than helpful. The original regulations, which were reviewed by three attorneys in private practice, cleared by the Bureau of Budget, and approved by the Chairmen and ranking minority members of the House and Senate Armed Services Committees, read:

"Qualifying Service' means performance of duty as an Agency employee:

"(a) under conditions of employment which include a demonstrable hazard to life or health in the conduct or support of covert action operations abroad, or espionage and counter-intelligence activities abroad; or

"(b) under conditions of employment requiring the continuing practice of most stringent security and covert tradecraft procedures to maintain personal cover in the conduct or support of covert action operations or espionage and counter-intelligence activities abroad; or

"(c) on a continuing basis which would place the individual at a distinct disadvantage in obtaining other employment either because (1) the skills and knowledge are unique to the clandestine activities of the Agency and are not in demand elsewhere, or (2) the duties are so highly classified that his experience cannot be described in sufficient detail to demonstrate his qualifications adequately to a prospective employer."

After the first eight years of experience in designating employees for participation in CIARDS, it appeared that the regulations should be rewritten to "sharpen the criteria for participation."¹ The current regulations, approved by

1. Memorandum for the Director, 7 Dec 1971, Subject: "CIARDS Regulations", Approved For Release 2002/01/08 : CIA-RDP80-00473A000600030015-1

Director Colby on 6 December 1973, did not represent any change in policy, but stated in more understandable terms the policies and practices followed by the Agency in designating participants. The regulations now read:

"Qualifying Service' means performance of duty as an Agency employee

"(a) when assigned either PCS¹ or TDY² to any place outside the forty-eight contiguous states and the District of Columbia; or

"(b) which requires a substantial risk to the life or health of the employee; or

"(c) which requires the continued practice of tradecraft under conditions of most stringent security for the purpose of maintaining personal cover in support of Agency activities; or

"(d) which, when retirement is imminent, is adjudged to have been so sensitive or so specialized that security requirements forbid disclosure of this duty and that, as a result, it is unlikely the employee will be able to obtain employment for which he is otherwise qualified."

Overseas Service Policy

From the beginning the Agency has counted all overseas service as qualifying, regardless of location or of the duties performed by the employee. The Board very early debated but rejected possible policy positions that would have counted service at some posts but not others, or that would

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1. PCS - Permanent Change of Station
 2. TDY - Temporary Duty.

have imposed additional requirements before a period of service overseas could be credited.

From time to time, other Agency officials have questioned whether overseas service should be considered qualifying per se, suggesting that each case should be examined on its merits and credited only if it demonstrably met specific conditions such as conduct or support of clandestine activities, or of hazard to life or health, or requiring the practice of stringent tradecraft.

The verbatim transcripts of minutes of meetings of the Retirement Board establish that the Board, in the early years, did not rule out the possibility that some overseas service might not be qualifying. However, it never did reject any period of such service, and finally concluded that all overseas service does, in fact, meet one or more of the conditions of employment which the Agency and the Congress considered qualifying for participation in CIARDS.

If CIARDS participation were viewed as being a reward to an employee for having performed a particular kind of service, distinctions could quite properly be made between posts of duty. For example, [REDACTED] might be considered less hazardous and less deserving of reward than

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25X1A [REDACTED]. However, the widespread and growing use of terrorism as a political instrument narrows any distinctions of this kind. Since terrorism does not intend to reach a specific victim but is primarily seeking public attention, [REDACTED] is a

potential victim, regardless of his post of duty or the activity in which he is engaged.

CIARDS is not primarily a reward to employees, but is a management tool designed to help the Agency maintain a youthful and vigorous work force. Early retirement is a device for separating employees before their employment becomes detrimental to the best interests of the Agency as well as a means of freeing spaces to permit additional career intake and to enhance promotion opportunities. Counting all overseas services as qualifying results in applying CIARDS across the board to that group of employees who have accepted a commitment to serve anywhere in the world as needed, and whose services at a high performance level are indispensable to the success of the Agency's mission.

It has been contended that overseas service is not necessarily indicative that an employee is serving on a career basis in a field which normally requires the performance of minimum periods of qualifying service. This does not appear to be a serious problem, however, because the law itself considers a participant to be fully and permanently qualified if he completes at least five years of qualifying service during 15 years of service in the Agency. Designation of an employee for participation after 18 months of overseas service does not benefit the employee unless he later completes an additional 42 months of qualifying service, and when his qualifying service totals 60 months.

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permanently qualifying requirement. If he fails to satisfy the requirement of 36 months of qualifying service after 10 years in the Agency, or of 60 months at the 15 year point, he is removed from CIARDS as no longer serving in a qualifying career field.

All in all, the Agency policy of crediting all overseas service seems quite reasonable.

While other more restrictive positions could be properly taken, the policy decision to consider all overseas service qualifying appears to be clearly within the range of discretion given to the Director of Central Intelligence by the CIA Retirement Act.

Domestic Policy

The Agency has not adopted any written guidelines for application of the regulations in determining whether domestic service is qualifying. Perhaps the best statement of the Agency's policy is found in a briefing memo, dated 30 April 1973, from Mr. Harry B. Fisher¹ to Mr. Colby. He described the policy on domestic service as "tight" and stated:

". . .As a result of the review of many such cases over the years, the Board developed a sense of the intent and application of the Regulation. From these cases, and from decisions made by the Director after his review of and action on appeals by employees, the Board developed certain benchmarks or standards against which to measure new

1. Director of Personnel and Chairman, CIA Retirement Board.

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domestic service cases. In considering requests that domestic service be credited as qualifying service, the Board has generally followed these unwritten guidelines which relate to each of the subsections of [REDACTED]):

(a) Was the hazard of a personal nature and directly related to the particular job performed.

(b) Did the employee really have to practice covert tradecraft to pro-

[REDACTED]

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(c) Could a resume be written which would properly describe the employee's career to satisfy a prospective employer."

The question of whether a period of domestic service is qualifying has always been and continues to be the problem that consumes the majority of the time and attention of the CIA Retirement Board.

Each case is measured against the regulations which are considerably less than definitive. For example, the regulations speak of substantial risk to life or health of the employee but do not define what is substantial. The regulations refer to tradecraft under conditions of most stringent security but are completely lacking in what constitutes most stringent or what degree of security is required. Similarly, the regulations lack specificity in describing the case of an individual whose duties are such that they cannot be disclosed and so it is unlikely he will be able to obtain outside employment.

The Board arrives at its judgments largely on the basis of precedents and here the memory of members is valuable and the continuity of membership makes it likely that someone will remember a precedent. This method of operating has, however, made it very difficult for Agency employees to know what kinds of service are qualifying and, in fact, to know whether their service is of a type which might be approved if they were to apply. It is even more difficult for an employee to understand or accept a Board decision denying credit for his domestic service. Verbatim transcripts of Board meetings show the areas of concern to members during their deliberation, but are not nearly so clear as to the exact basis on which the board reached a conclusion to approve or disapprove.

Need for More Specific Guidelines

A number of unsuccessful attempts to write definitive and objective criteria into the regulations have been unsuccessful. One of the difficulties is that in trying to write the regulations in detail and with precision, it is almost impossible to visualize every type of case that will come up. Thus the Agency would undoubtedly be faced with cases where, in equity and consistence with general policy, a case should be approved but the regulations would require its disapproval.

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[REDACTED] currently Deputy Inspector General, made a suggestion which appears to have considerable merit. Essentially, he suggests that the Board continue with the present, rather general regulations but write, in narrative form, descriptions of the kinds of service that are considered qualifying and of the kinds of service that are not considered qualifying. This process could never result in providing a precise guideline for every case, but it would certainly enable all concerned to readily identify most service which is clearly qualifying, and most service which is clearly not qualifying. There would still be a gray area in between which could be resolved only by the exercise of subjective judgment, which the Retirement Board is well equipped to provide, but this gray area would narrow through the passage of time as additional narrative descriptions of qualifying service and nonqualifying service were written.

It is recommended that the Agency consider this suggestion and commit the necessary resources to carry it out if it proves feasible.

PART IV

QUANTITATIVE RESULTS OF AGENCY ADMINISTRATION

Much of the authority exercised by the Agency in designating employees for participation is in an area of subjective judgment, which is very difficult to measure quantitatively. This is certainly true of the hard decisions. However, even the subjective determinations have end results that are measurable.

A look at the results of the Agency's determinations under Section 203 will provide much information of interest to the Committee, and will provide specific answers to some of the questions asked and concerns expressed by Mr. Stratton in the April 7, 1976 hearing.

Percentage of Agency Employees in CIARDS

In the hearings on the original legislation, and consistently since, CIA has given estimates ranging from a low of one-fourth to a high of one-third of Agency employees who would qualify for participation in CIARDS. Neither the high nor the low was ever set as a requirement or an absolute, but experience over the years has validated these estimates, as shown in Table 1 which follows. The number of participants has been declining

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1. Honorable Samuel S. Stratton, Dem., N.Y.

since it peaked in 1972, and will continue to drop because of reduced Agency personnel strength and number of employees overseas.

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Designations and Removals

An employee may be designated for participation in CIARDS if he has at least 5 years of Agency service, of which at least 18 months are qualifying service. As a practical matter, designation after 5 years of Agency service almost always means at least 18 months of overseas service, because qualifying domestic service is considered only for employees who do not have a full 60 months of overseas service after completing 15 years of Agency service (or later when retirement is imminent). Participants are removed from CIARDS if they do not have at least 36 months of qualifying service after 10 years of Agency service, and at least 60 months of qualifying service at the 15 year point.

25X9 Over [REDACTED] employees had been designated by December 31, 1967, the period covering initial implementation of the 1964 legislation. Thereafter, a peak of [REDACTED] was reached in 1972, 25X9 and new designations after that point have averaged only 25X9 [REDACTED] a year.

Employees removed for lack of sufficient qualifying service (an indication that the career is no longer in a qualifying field) have been significant, particularly in recent years. Removals for the last three full calendar years have averaged 53 a year, and have totalled 243 since the program began.

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Domestic Qualifying Service


A determination of whether a period of domestic service is qualifying for participation in CIARDS is never made except upon the request of the employee. If an employee has enough overseas service to qualify (60 months after 15 years of CIA service or at retirement), his domestic service is never considered. Most employee requests that domestic service be considered come from employees who have some, but less than 60 months, of overseas service.

25X9 Of the [REDACTED] designations for participation since CIARDS began in 1964, only [REDACTED] of the total) have been based in any part on domestic service. Activity has been as shown below.

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TABLE 3

Participation Based in Part on
Domestic Qualifying Service

| | <u>January 1975 to</u> <u>June 30, 1976</u> | <u>Total</u> <u>1965 to 1976</u> |
|------------------------|--|-------------------------------------|
| Applications |  | |
| Approved | | |
| Not Approved | | |
| Disapprovals Appealed | | |
| Disapprovals Sustained | | |
| Disapproval Reversed | | |


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Retirement Eligibility

CIARDS participants are eligible to retire voluntarily (the consent of the Director is required but has never been withheld) when they have reached age 50 and have completed a total of 20 years of service, including at least 10 years of Agency service and at least 5 years of qualifying service. Participants who have 25 years of total service, 10 years of Agency service, and 5 years of qualifying service are eligible for immediate annuity if the retirement action is initiated by the Agency. Current eligibility is shown below.

TABLE 4

CIARDS Retirement Eligibility
as of June 30, 1976

| <u>Eligible to Retire</u> | <u>Number</u> | <u>% of Total</u> |
|---------------------------|--|-------------------|
| Voluntary |  | |
| <u>Involuntary</u> | | |
| TOTAL ELIGIBLE | | |
| <u>Not Eligible</u> | | |
| TOTAL PARTICIPANTS | | |

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Retirements - Fiscal Year 1976

The tables that follow show the kinds of employees who are retiring under CIARDS.

Table 5A shows that most CIARDS retirements are from the Operations and Administration Directorates. Of the total of [REDACTED] retired from these two organizations.

Table 5B shows retirements by attained age. Voluntary retirements under the age 50-20 year provision account for the 40 CIARDS retirements at age 50. The effect of the involuntary 25 year provision is seen in the concentration of retirements from age 44 to age 49.

Table 5C, CIARDS Retirements by Total Federal Service, shows only one retirement with the 20 years that is the minimum for non-disability retirement. The big concentration is well beyond the minimum and bulges at 26 through 31 years of service.

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Table 6G shows FY1971 and FY1976 retirements by individual grade, and Table 6H shows percentages at GS-12 and above. CIARDS is quite consistent at about 75% at GS-12 and above, and CSR similarly at roughly 50%.

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Table 6E
Average Age of Retirees

| <u>FISCAL YEAR</u> | <u>CIARDS</u> | <u>CIVIL SERVICE</u> |
|--------------------|---------------|----------------------|
| 67 | 55.1 | 57.7 |
| 68 | 54.3 | 56.6 |
| 69 | 54.4 | 57.3 |
| 70 | 54.9 | 56.7 |
| 71 | 53.2 | 56.5 |
| 72 | 52.7 | 55.9 |
| 73 | 53.3 | 55.3 |
| 74 | 51.7 | 54.5 |
| 75 | 51.8 | 54.3 |
| 76 | 51.0 | 53.9 |

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Table 6H

Percent of Retirements at GS-12 and Above

CIARDS

| <u>FISCAL YEAR</u> | <u>TOTAL RETIRED</u> | <u>GS-13 and UP</u> | <u>GS-12 and UP</u> |
|--------------------|----------------------|---------------------|---------------------|
| 1972 | 249 | 64% | 76% |
| 1973 | 479 | 68% | 77% |
| 1974 | 274 | 63% | 75% |
| 1975 | 303 | 58% | 72% |
| 1976 | 307 | 61% | 74% |

CIVIL SERVICE RETIREMENT

| <u>FISCAL YEAR</u> | <u>TOTAL RETIRED</u> | <u>GS-13 and UP</u> | <u>GS-12 and UP</u> |
|--------------------|----------------------|---------------------|---------------------|
| 1972 | 369 | 35% | 46% |
| 1973 | 498 | 47% | 57% |
| 1974 | 340 | 44% | 50% |
| 1975 | 211 | 37% | 47% |
| 1976 | 215 | 35% | 45% |

COMBINED

| <u>FISCAL YEAR</u> | <u>TOTAL RETIRED</u> | <u>GS-13 and UP</u> | <u>GS-12 and UP</u> |
|--------------------|----------------------|---------------------|---------------------|
| 1972 | 618 | 47% | 58% |
| 1973 | 977 | 56% | 66% |
| 1974 | 614 | 53% | 61% |
| 1975 | 514 | 59% | 74% |
| 1976 | 522 | 50% | 62% |

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Qualifying Service

Through June 30, 1976, a total of [REDACTED] employees
had retired under the non-disability provisions of CIARDS.
The records show that [REDACTED] of the retirees, had
only the minimum of 60 months of qualifying services re-
quired for eligibility.

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This record is somewhat misleading and must be con-
sidered with recognition that when domestic qualifying
service is approved, the approval goes to only the number
of months which, when added to months of overseas service,
will bring the total to 60 months. For example, if an em-
ployee with 50 months of overseas service asked the Re-
tirement Board to qualify a period of 7 years of his domes-
tic service, and the Board found the domestic service to be
qualifying within the regulations, approval would be given
for only 10 months. This would bring his total qualifying
service to 60 months and the records would not reflect any
qualifying domestic service not required for eligibility.

The [REDACTED] retirees credited with exactly 60 months of quali-
fying service include [REDACTED] in the category just described.

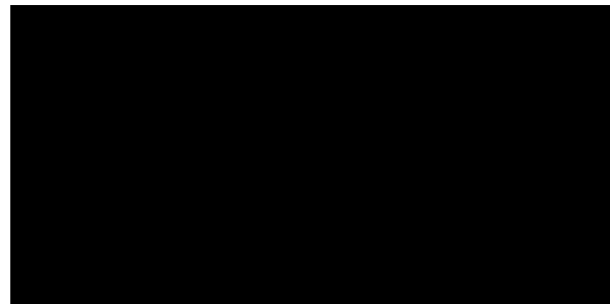
There have been only 15 retirees in the 12 years
since CIARDS began whose eligibility is based entirely on
domestic qualifying service, and of the other [REDACTED] retirees,

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25X9 [REDACTED] have had at least 60 months of overseas service. The picture may be summarized as shown:

Retirees by Type of Qualifying Service

| <u>Qualifying Service</u> |
|------------------------------|
| 60 months domestic |
| 60 months overseas |
| 60 months combined |
| More than 60 months overseas |
| TOTALS |



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The total amount of qualifying service credited to retirees ranges from the minimum of 60 months (5 years) required for eligibility to a maximum of 310 months (almost 26 years) in the case of one individual. The average is 104 months (almost 9 years). The breakdown by months is shown below:

Non-Disability Retirees
by Months of Qualifying Service

| <u>Months of Qualifying Service</u> | <u>Number</u> |
|-------------------------------------|---------------|
| 60 months even | |
| 61 to 65 | |
| 66 to 70 | |
| 71 to 75 | |
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PART V
SOME QUESTIONS EXPLORED

- A. Is impairment for future use by the Agency an implied requirement for retirement?
- B. How generous is the CIA Retirement System?
- C. Has the Agency been consistent in its determinations of qualifying service?
- D. What has happened to the "hump"?
- E. Should the system of early designation and periodic review for CIARDS participation be continued?
- F. Is the definition of "qualifying service" in the Agency's regulations wholly consistent with the law?

A. IS IMPAIRMENT FOR FUTURE USE BY THE AGENCY
AN IMPLIED REQUIREMENT FOR RETIREMENT UNDER CIARDS?

In the April 7, 1976, hearings of the Subcommittee on Investigations of the House Committee on Armed Services, Mr. Stratton¹ voiced several times the opinion that it was the intent of Congress in enacting the CIA Retirement Act

1. Honorable Samuel S. Stratton, Dem., N.Y.

in 1964 that only those CIA employees whose future use to the Agency was impaired were to be retired.

He referred to those engaged in security matters and "apt to get their covers blown prematurely,"¹ to those "in a dangerous spot and likely to be knocked off."² Also to "those whose cover might be blown. . . and they were no use any longer to the Agency" and "those who might be exposed to hazardous duty and perhaps be roughed up, . . . or live in difficult conditions, and become physically impaired prematurely because of the risks they were taking."³

His question, "He's got to be specifically designated by the Director as someone whose usefulness in the service has been destroyed for some particular reason, is that correct?"⁴ was answered in the negative. He expressed his understanding that being impaired to future use by the Agency went to the heart of the CIARDS legislation.⁵

Mr. Stratton was a member of the House Armed Services Committee in 1963 and participated in four days of hearings on the original legislation. It is a considerable tribute to his memory that the thoughts he voiced in 1976 hearings, 13 years after the originals, were also expressed, and in many instances in almost the same words and phrases, back in 1963.

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1. Page 27, Hearings on HR 11088, HASC No. 94-46.
 2. Page 29, Ibid.
 3. Page 31, Ibid.
 4. Page 35, Ibid.
 5. Page 36, Ibid.

The record is clear that the Agency in 1963 cited in justification of the proposed new retirement system the employee burned out at an early age, physically or mentally. The term "motivationally exhausted" was used to describe the employee who had lost his enthusiasm for the work he was doing. Hazards and dangers were described, with awareness that as an employee ages he may become less able to avoid their disastrous consequences.

Some time was spent in the hearings discussing the need for cover, and the increasing possibility of the cover being blown as years elapse. Most of the cover positions available for Agency use are at younger ages and cover becomes harder and harder to arrange as an employee ages.

A final example of impairment was the employee whose skills are no longer needed because of changed technology or a shift in the needs of the Agency.

A retirement system intended only for the retirement of those whose services were impaired for future use by the Agency would need a provision for disability retirement for employees who incurred a disabling illness or injury. It would also need a provision for involuntary retirement to separate those whose future services could not be used effectively because of blown cover or obsolete skills.

The CIA Retirement System includes the disability retirement provision and the involuntary retirement provision intended for cases of impaired services, but it also includes additional provisions for employees whose services are not necessarily impaired. The provision for early optional retirement (age 50 with 20 years of service, including 10 Agency and 5 qualifying) serves the extremely valuable purpose of permitting and encouraging early retirement, hopefully in most cases before the employee becomes ill or suffers injury. The consequences of "blown cover" and its disastrous effect on the Agency's mission also make it highly preferable that employees exercise the provision for voluntary retirement before, not after, cover is blown.

It was further recognized in 1963, and is now, that one of the objectives of CIARDS is to free personnel spaces (in part by encouraging early retirement) to provide for career intake and to increase promotion opportunities for career employees. Manpower management of a "hump" problem (a concentration of employees at a particular age group) is greatly facilitated by early voluntary retirements.

In the 1963 hearings Mr. Stratton compared a CIA manpower hump problem to similar problems that resulted in the "hump" legislation for the Navy and the "white charger" legislation for the Air Force. He said in part, "In other words, you just got a surfeit of people, of skills, that

have somewhat become outmoded."¹

General Carter agreed and pointed out that some of the employees who were in a surplus category had been transferred or reassigned at the same grades or even higher grades. He described them by saying "There was nothing wrong with them as people."²

Finally, the enactment of a CIARDS provision for mandatory retirement at age 60 contemplated that some employees would complete a full career without their services being impaired, and that at age 60 they should be retired without waiting for the inevitable "physical or mental impairment" or "blown cover."

It is reasonable to conclude that the Agency and the Congress understood that services of a type that frequently result in impairment are justification for a special system geared to early retirement, but that impairment is not a condition precedent to the retirement of each employee.

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1. Page 5834, Hearings on HR 7216.
 2. Gen. Carter, Deputy Director of Central Intelligence, page 5834, Ibid.

B. HOW GENEROUS IS THE CIA RETIREMENT SYSTEM?

In the hearings on the 1976 legislation Mr. Stratton indicated his awareness of the problem of an over-generous retirement system and of the financial headaches that such systems can give for the future. The degree of generosity of liberality of the CIA Retirement System is, of course, relative.

The CIA Retirement System is more generous than the Civil Service Retirement System generally, but is not as generous as many of the other retirement systems or retirement provisions that apply to other groups of federal employees. For example, an employee subject to the general provisions of the Civil Service Retirement System contributes 7% of his pay, may retire at age 55 with at least 30 years of service, and receives an annuity which is slightly less than 2% of his high-three average salary multiplied by years of service.

Provisions of the Civil Service Retirement System applicable to FBI agents and other law enforcement personnel, to firefighters, and to Members of Congress also permit optional retirement at age 50 with 20 years of service. Employees of the FBI and firefighters contribute 7.5% of pay and receive annuity of 2.5% of pay for the first 20 years, and 2% for years exceeding 20, while a Member of Congress has a retirement contribution of 8% and an annuity

computation of 2.5% of high-three times years of service.

The Foreign Service retirement system is most nearly like CIARDS, requiring a 7% contribution and awarding an annuity of 2% of high-three times years of service. Both Foreign Service and CIARDS have a maximum annuity of 70% of high-three, compared to 80% for Civil Service Retirement, FBI, firefighters, and Members of Congress.

Of systems permitting early retirement, the system applicable to District of Columbia police and firemen is probably the most generous. For a contribution of 7% of pay the retiring policeman or fireman receives an annuity computed at 2.5% of final pay multiplied by the first 20 years of service, plus 3% of final pay multiplied by years of service in excess of 20. His maximum annuity for voluntary retirement is 80% of final pay.

A good measure of the generosity of a retirement system is the years of service required to produce annuity equal to half pay. For Civil Service Retirement generally this is 26 years and 11 months. For CIA and Foreign Service it is 25 years, and for FBI, Members of Congress, and D.C. Police and Firemen, 20 years of service will result in half pay.

It should be noted particularly that the CIA Retirement System was modelled in part on the early retirement system for FBI agents. Until 1974 both CIA and FBI used a straight

2% computation. The FBI now uses 2 1/2% for the first 20 years, which provides an annuity after 20 years of service that is 25% higher than that produced by a 2% computation. To illustrate specifically, assume retirement after 20 years of service with a high-three average salary of \$20,000. The FBI agent will receive \$10,000 a year, while the CIA employee will receive \$8,000 in retirement pay. The two systems are no longer equal.

A chart comparing some of the provisions of the Civil Service Retirement System with similar provisions for the CIA System and of three others follows.

COMPARISON OF PRINCIPAL PROVISIONS OF THE CIVIL SERVICE AND OTHER RETIREMENT SYSTEMS

NOTE: This chart has been prepared to give only general information about these retirement systems.
The presentation is necessarily simplified and many technical points are not covered.

| Item | Civil Service Retirement | CIA Retirement | Foreign Service | Members of Congress | D. C. Police & Firemen |
|---|---|---|---|--|--|
| Contributions to Retirement Fund | By employee: 7% of basic pay By Agency : 7% of basic pay | Same as CS. | Same as CS. | Members: 8% Same by Agency | By employee: 7% of basic pay By Agency : None |
| Computation of Annuity | | | | | |
| Basis | Based on average basic salary for highest three consecutive years of service (high-3) and years of creditable service increased by the days of unused sick leave. | Same as CS. | Same as CS. | Same as CS. | Computed on Basic salary (regular salary established By law plus any differential for special occupational assignment) at the time of retirement. |
| Formula | 1 1/2% of high-3 times first 5 years of service + 1 3/4% of high-3 times second 5 years of service + 2% of high-3 times remaining years of service. | 2% of high-3 times years of service. | 2% of high-3 times years of service. | 2 1/2% of high-3 times all years as Member or Congressional employee, or of military service that interrupted Member service, plus up to five years of other military service. Remaining years computed under general CS formula (usually 2%). | 2 1/2% of basic salary for first 20 years of police or fire service; 3% for police or fire service in excess of 20 years; 3% for unused sick leave; 2 1/2% for other creditable military and Federal civilian service. |
| Maximum | 80% of high-3 (attained at 41 years, 11 months of service) | 70% of high-3 (attained at 35 years of service) | 70% of high-3 (attained at 35 years of service) | 80% of the greatest of: (a) the final basic pay of the Member; (b) the average pay of the Member; or (c) the final basic pay of a subsequent appointive position. (attained at 32 years of all Member service) | 80% of basic salary for optional retirement and 70% of basic salary for disability (in line of duty) retirement. |
| | Annuity in excess of the maximum that is produced by crediting unused sick leave is payable. | Same as CS. | Same as CS. | No similar provision. | Same as CS. |
| Total service required to produce annuity equal to 50% of high-3 or final pay, as applicable. | 26 and 11/12 years | 25 years | 25 years | 20 years. | 20 years. |
| Credit for Military Service | As a general rule, military service is creditable, without deposit to the fund, provided it was active service, was terminated under honorable conditions, and was performed before separation from a civilian position under the retirement system. Military service covers service in the Army, Navy, Air Force, Marine Corps, and Coast Guard, including the service academies and, after June 30, 1960, in the Regular Corps or Reserve Corps of the Public Health Service, and, after June 30, 1961, as a commissioned officer of the Coast and Geodetic Survey. | Same as CS. | Same as CS. | Same as CS. | Same as CS. |

| | Civil Service Retirement | CIA Retirement | Foreign Service | Members of Congress | D. C. Police & Firemen |
|--|---|---|--|--|--|
| <u>Computation of Annuity</u> (cont'd) | | | | | |
| Cost-of-living Adjustment | Geared to movement of CPI as determined by BLS. | Same as CS. | Same as CS. | Same as CS. | Same as CS for survivors only. Retiree's annuity is recomputed on the basis of new salary level granted to active duty personnel (subject to current maximum of \$37,800) with the same effective date of increase. |
| Reduction for age | Annuity is reduced by 2 per cent per year for each year the employee is under age 55. This reduction does not apply in the case of disability retirement. | No reduction for age for any type of retirement. | No reduction for age for any type of retirement. | For Members reduction is 1% per year for the first 5 years and 2% for remaining years Member is under age 60. | No reduction for age for any type of retirement. |
| *Special adjustment (PL 93-273 dated 4/26/74) | Increase of \$20.00 per month on all annuities based on separations prior to October 1969. No annuity less than minimum Social Security payment. | No similar provision. No similar provision. | No similar provision, but will be effected by Executive Order. No similar provision, but will be effected by Executive Order. | Same as CS. Same as CS. | No similar provision. No similar provision. |
| Optional (Voluntary) Retirement | Available at age 60 with 20 years service, age 62 with 5 years service, age 55 with 30 years service. | Available at age 50 with 20 years service, including 10 years Agency service of which 5 years are qualifying, upon application and with consent of DCI. | Available at age 50 with 20 years service. | Available to Members at age 62 with 5 years civilian service; at age 60 with 10 years Members' service; and at age 55 with 30 years of service (with reduction under age 60). A Member of any age with 25 years of service, or at age 50 with 20 years of service or service in 9 Congresses may in effect retire optionally (with reduced annuity) by deciding not to run for reelection. | Available at any age with 20 years police or fire service with at least 60 days written advance notice to his department head. |
| Involuntary Retirement | Immediate annuity available if involuntarily separated, not for cause, if: Any age with 25 years service; Age 50 with 20 years service. Earned annuity reduced proportionately for years under age 55. | Involuntary retirement at the discretion of the DCI if: Any age with 25 years service; or age 50 with 20 years service. In either case, must have 10 years Agency service including 5 years of qualifying service. | Involuntarily retired with immediate annuity when selected-out at any age as FSO class 1, 2 and 3. | A Member who is separated, except by resignation or expulsion, after completing 25 years of service or after becoming 50 years of age and (1) completing 20 years of service or (2) serving in 9 Congresses is entitled to a reduced annuity. This includes a Member who does not run for reelection or who is defeated in a primary or in an election. | No similar provision. |
| Disability Retirement | Available at any age with 5 years of service. Guaranteed minimum annuity is the lesser of: (1) 40% of high-3; or (2) annuity computed by extending service to age 60. Under Federal income tax, the "sick-pay" exclusion (up to \$100 per week) is applicable to disability annuity up to mandatory retirement age. | Same as CS. Same as CS. Same as CS. | Same as CS. Same as CS. Totally tax free. | Same as CS. Same as CS. Same as CS. | <u>Not in line of duty:</u> Available at any age with 5 years of service computed as 2% of basic salary or portion thereof but not to exceed 70% of basic salary at time of retirement; 40% guaranteed. <u>In line of duty:</u> Any age, no service requirement, 2% of basic salary at time of retirement for each year or portion thereof of his service; 70% maximum; 66 2/3% guaranteed. <u>Not in line of duty:</u> Same as CS. <u>In line of duty:</u> Totally tax free. |

| | Civil Service Retirement | CIA Retirement | Foreign Service | Members of Congress | D. C. Police & Firemen |
|----------------------------|---|---|--|--|--|
| Mandatory (Age) Retirement | Required at age 70 with 15 years of service. | Required at: Age 65 if GS-18 or above; Age 60 if GS-17 or below. The DCI may extend a participant's service for not more than 5 years. | Required at: Age 65 if a Career Ambassador or a Career Minister; Age 60 for all other participants. The Secretary of State may extend a participant's service for not more than 5 years. | Members exempt from any mandatory age. | Age 60. On Commissioner's order, can remain to age 64. |
| Deferred Annuity | An employee who is separated before becoming eligible for an immediate annuity but with five years or more of service may elect to leave his contributions in the Retirement Fund and receive an annuity at age 62. | Same as CS. | Any participant who is separated before becoming eligible for an immediate annuity but with five or more years of service may elect to leave his contributions in the fund and receive a deferred annuity at age 60. | Members eligible at age 62 with 5 years civilian service. Members eligible at age 60 with 10 years Member service. Member with 20 years service, including 10 or more years of Member service entitled to reduced annuity beginning at age 50. | No similar provision. |

C. HAS THE AGENCY BEEN CONSISTENT IN
ITS DETERMINATIONS OF QUALIFYING SERVICE?

By and large this question must be answered in the affirmative. As indicated elsewhere, the Agency has, from the beginning of the System, considered all service overseas to be qualifying and a review of substantial portions of the minutes of board meetings indicates no deviation from this policy.

A somewhat different picture emerges with respect to domestic service. Agency determinations in this area have generally been very tight. One period does emerge as a temporary difference in Agency policy.

In 1968 the Agency faced a need to reduce total strength and, at the same time, was plagued with the problem of freeing personnel spaces in order to permit additional career intake. Somewhat by coincidence it found that the quota of 400, fixed by Congress as the limitation on non-disability retirements to June 30, 1969, was not going to be totally used.

In July 1968 Mr. L. K. White, Executive Director/Comptroller, issued to all directorates a memorandum asking for a review of personnel for possible designation and retirement under CIARDS. He pointed out that the System is a flexible one that had been developed in such a way as to be responsive to management needs. He asked that

"greater consideration" be given to the possibility of qualifying domestic service performed by employees. He specified that this exercise should not in any way be considered a precedent for the future because the Agency might then be under retirement quotas which would require more restrictive judgment in the designation of participants.

During the next 11 months the Agency was considerably more liberal in the exercise of its subjective judgment as to what constitutes qualifying domestic service. It still required specific demonstration that the type of service performed by the employee was within the law and regulations. At the same time, it accepted as qualifying a lesser degree of hazard and less stringent security requirements, and adopted a more tolerant view of what kinds of Agency service make it difficult for a retiree to obtain other employment.

The purpose of the Agency's relaxation in the exercise of its discretion was made quite clear by the requirement that an employee applying for credit for domestic service also sign an application for voluntary retirement to occur no later than June 30, 1969.

This period, August 1968 through June 1969, looms quite large in the memories of members of the Retirement Board and other officials of the Agency. While cases decided during this period were not to be precedents, it was

inevitable that after June 30, 1969, other employees applying for credit for domestic service would point to the case of an individual approved during this period and compare their type of service with his. A review of the records indicates that only 58 domestic service cases were approved during this aberrant period - a figure much lower than the impression existing in the minds of Agency officials who were involved in it. Many of these 58 cases, perhaps as many as half, would have been approved without any relaxation of the application of the criteria.

The 58 cases approved included qualifying domestic service ranging from less than one to a full five years of service. This breaks down as follows:

| <u>August 1, 1968 to June 30, 1969</u> | |
|--|--------------------------------|
| <u>Months of Domestic Service Approved as Qualifying</u> | <u>Number of Employees</u> |
| 60 | 3 |
| 48 to 59 | 7 |
| 36 to 47 | 12 |
| 24 to 35 | 17 |
| 12 to 23 | 5 |
| 1 to 11 | <u>14</u> |
| TOTAL | 58 |

Both before and after this 11-month period the Agency exercised a very tight application of subjective judgment in

determining whether domestic service is qualifying. Since 1964 the total number of cases in which domestic service has been approved for persons who thereafter retired has been only 217, broken down as shown:

| <u>1964 to 1976</u> | |
|--|--------------------------------|
| <u>Months of Domestic Service Approved as Qualifying</u> | <u>Number of Employees</u> |
| 60 | 15 |
| 48 to 59 | 23 |
| 36 to 47 | 20 |
| 24 to 35 | 56 |
| 12 to 23 | 34 |
| 1 to 11 | <u>69</u> |
| TOTAL | 217 |

D. WHAT HAS HAPPENED TO THE "HUMP"?

Part of the original justification for the CIA Retirement System was the existence of the "hump," a disproportionately high number of employees bunched in the age 40 to 45 age group. This hump had been caused by the hiring, within a few short years in the late 1940's and early 1950's, of thousands of young people, many of whom stayed on for a career in the Agency. The fact of few separations from this group was blocking career intake and minimizing promotion opportunities for younger employees. As the group aged, so did the prospect of suddenly losing (by death, disability, and age retirement) the skills and experience represented by this group, without having a steady intake of new young blood acquiring experience and skills and being promoted to positions from which they could take over top responsibilities.

The Agency still has a "hump," but for some time it has been more at the 45 to 49 age group, which experiences heavy separation rates that make room for career intake and promotion opportunities.

It is difficult to appraise the effect CIARDS has had on the hump problem. The mere passage of time has probably done more to move the hump forward than any other factor. At the same time, it is undeniable that the 2400 retirements

under CIARDS, at somewhat earlier ages than they would have occurred under Civil Service Retirement, have helped the manpower management problem.

A series of tables providing data on the "hump," and related problems appear in the pages that follow.

Table 7A shows that the average age of all civilian employees, which was 36.3 on December 31, 1965 had increased to 37.8 by December 31, 1975. Not shown is the fact that the average age at GS-12 and above decreased from 43.9 to 43.3 in the same period.

Table 7B shows how the hump has moved forward for all General Schedule employees, and Table 7C does the same for Operations Career Staff at GS-9 and above.

Table 7D projects a new hump, now at the 30 to 34 age group, moving forward to the 40 to 44 by 1981.

Table 7E shows losses by age groups, with losses as a percent of total decreasing at younger ages and increasing at older ages.

Tables 7F and 7G illustrate that promotions are now slower for professionals outside Operations, and slightly faster for Operations officers. These rates are probably influenced slightly by the fact that retirements under CIARDS occur at somewhat lower ages than under CSR.

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E. SHOULD THE SYSTEM OF EARLY DESIGNATION

AND PERIODIC REVIEW FOR CIARDS

PARTICIPATION BE CONTINUED?

The present system appears to be somewhat costly, time consuming and cumbersome. It requires a review by the employing directorate when an employee has five years of Agency service, and designates him for participation at that point or thereafter when he has completed at least 18 months of qualifying service. After designation it requires a review at the point of ten years of Agency service and a final review just before the employee completes 15 years of Agency service to determine that he continues to meet the requirements for continued participation.

All employees of the Agency begin their careers under the Civil Service Retirement System. When they are designated as participants in CIARDS the employee deductions and Agency contributions are withdrawn from CSR and deposited in the CIARDS fund. If an employee is found to be not qualified for continued participation at a periodic review he is retransferred to CSR. The deductions and Agency contributions previously transferred to CIARDS, together with the deductions and contributions made while a participant, are withdrawn from the CIARDS fund and retransferred to CSR.

Since CIARDS began in 1964, 243 participants have been found not qualified on periodic review and have thus been involved in the transfer-retransfer process.

Not all employees who become participants in CIARDS continue their Agency career and become eventually qualified for retirement. Since 1964, 518 employees have left the Agency and withdrawn their contributions from the CIARDS fund.

These procedures would appear to be worthwhile if they accomplished any substantial benefit for the Agency or for the employee, but very little advantage appears to accrue from the process.

Each participant in CIARDS must sign an agreement that he will serve wherever assigned at any time, but this same commitment could be required of all Agency employees whether or not they are participants in CIARDS.

For an employee who becomes disabled or dies prior to becoming eligible for retirement, there is usually no advantage to his being a participant in CIARDS. Inasmuch as both systems guarantee a disability annuity equal to 40 percent of high-three, and survivor benefits based on 40 percent of high-three, participation in CIARDS is advantageous only to the employee who had considerable service before he came to the Agency and whose total service at disability or death exceeds 20 years.

Congressman Stratton, in the 1976 hearings on HR 11088, asked why the Agency did not designate for participation only those employees who have at least 5 years of qualifying service. This appears to be entirely feasible. The Agency

could have the initial review of employees just before they complete 15 years of Agency service. If at that time they have 60 months of service qualifying under Section 203 of the CIA Retirement Act, they could be designated as participants and, at the same time, be asked to sign the irrevocable election to remain in CIARDS.

If this system were followed the initial designation would also be a permanent designation for participation and the five-year and ten-year reviews could be eliminated.

At the present time about [REDACTED] participants in CIARDS have completed 15 years of Agency service of which at least five years are qualifying service and, thus, are permanent participants.

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Since the cost of this or any other retirement system is ultimately measured by the value of benefits paid out, there would appear to be little or no difference in cost if employees were designated only when permanently qualified. There would, of course, be some difference in the amounts of money in the CIARDS fund and the effect of this difference on the availability of cash for payment of benefits should be fully explored before any changes are made in the present system for designation and review of participants.

F. IS THE DEFINITION OF "QUALIFYING SERVICE"
IN THE AGENCY'S REGULATIONS
WHOLLY CONSISTENT WITH THE LAW?

From the beginning, the Agency has considered service to be qualifying only if it includes the types of duties described in Section 203, i.e., "in support of Agency activities abroad hazardous to life or health," or "so specialized because of security requirements as to be clearly distinguishable from normal government employment." The regulations, while somewhat more specific, have included only service in which the duties fall in one or both of the categories described in Section 203.

A look at the definition of qualifying service found in the law indicates that the Agency practice is very restrictive and may in fact be not wholly consistent with the law. Section 111(3) of the CIA Retirement Act reads as follows:

"Qualifying Service' means service performed as a participant in the system or, in the case of service prior to designation, service determined by the Director to have been performed in carrying out duties described in Section 203."

All of the Agency's determinations have been made under the last half of this definition. No recognition or effect has been given to the provision that service performed as a participant is qualifying service.

Under the Agency's regulations, an employee's designation as a participant in CIARDS is rescinded at the ten-year

review if he then has less than 36 months of qualifying service, and is rescinded at the fifteen-year review if his qualifying service totals less than 60 months. If effect were given to the part of the law's definition that says service performed as a participant is qualifying service, an employee designated after 5 years of CIA service, including 18 months of qualifying service, would automatically have an additional 60 months of qualifying service by the time of the ten-year review, and a further 60 months by the fifteen-year review. No employee would have his designation as a participant rescinded for lack of sufficient qualifying service. The Agency has applied the definition in its regulations, rather than the one found in the law, in rescinding the designations of 243 participants since the system began, and the validity of these actions may be somewhat clouded. Some question may also exist as to at what point the employee has completed the 5 years of qualifying service required for retirement eligibility.

A review of the legislative history does little to establish the intent of the first half of the definition of qualifying service. The 1964 legislation, as it passed the House, did not contain a definition of "qualifying service," but did, in Section 203, describe in general terms the kinds of duties that would permit an employee to be designated as a participant. It required at least 5 years

of Agency service for voluntary retirement, but set no minimum in terms of the duties described in Section 203. The term "qualifying service," was used only in a provision for early involuntary retirement¹ that was later deleted in the Senate.

In discussing qualifying service in the hearings, and in debating whether to require minimum periods of "qualifying service" for retirement eligibility, it is clear that the types of service unique to CIA, rather than normal government employment, were contemplated. Mr. Blandford² said, ". . . by the word 'qualifying service,' we mean this type of service."

25X1A [REDACTED] said, "You said 5 years in the system which is a little different than 5 years of qualifying service."

In discussing the early involuntary provision (later deleted by the Senate) Mr. Blandford said,⁴

"We wanted an individual who was going to get the benefit of this immediate annuity to have participated in this type of operation that qualified him for this retirement program. In other words, the 5 years in the Agency doesn't satisfy. It is 5 years in the Agency in the covered type of retirement."

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1. Section 234(c) of HR 8427 as it passed the House.
 2. Russell Blandford, Committee Counsel, p. 5926, Hearings on HR 7216.
 3. Legislative Counsel, CIA, p. 5927, House Hearing on HR 7216.
 4. Page 5888. Ibid.

Earlier in the discussion,¹ Mr. Blandford had implied alternative means of qualifying by saying,

"There ought to be in this bill somewhere a provision that says that you must actually be a participant and have been designated by the Director as a participant in this fund for a period of 5 years or engaged in such occupation for a period of not less than 5 years as to qualify for this fund."

The Senate Committee on Armed Services amended the House-passed bill, HR 8427, in part by adding the definition of "qualifying service" which eventually became law. In its report,² the Senate Committee on Armed Services stated that it had "(2) Inserted a definition not contained in the House version for the term 'qualifying service,' which is defined as service performed as a participant or, in the case of service prior to designation, service determined by the Director to have been performed in carrying out duties described in Section 203."

The same report recognized that the Agency would review the records of participants at least every 5 years "in order to determine if there should be continued coverage for the individuals under the system."

1. Legislative Counsel, CIA, p. 5847 and 5848, House Hearing on HR 7216.

2. Report No. 1589, 88th Congress, Second Session.

What should be done about the difference that exists between the literal reading of the law and the Agency regulations and practice? The following are among the available alternatives.

1. Amend the law to conform to the Agency's regulations and practice. This would delete the first criterion in Section 111(c).
2. Amend the Agency's regulations and practice to credit all service performed by a participant as qualifying service for continued participation and for eligibility for retirement.
3. Amend the Agency's regulations to include service performed as a participant in the definition of "qualifying service," and further amend the regulations to provide that an employee's designation as a participant will be rescinded at the time of periodic reviews unless he has performed the required minimum periods of service in the performance of duties of the types qualifying for original designation.
4. Amend the regulations and practice to designate only those employees who have at least 60 months of qualifying service, and eliminate the periodic reviews. Alternative 3 could then be used to rescind the designation of present participants

who do not qualify at the 15 year review.

For reasons not related to this problem of definition, this report elsewhere (See Part V, E) recommends a change in policy to designate only after 60 months of qualifying service. If that recommendation, also shown here as alternative 4, is adopted, the matter of the difference in definition will not be a problem in the future.

P A R T V IFINDINGS AND CONCLUSIONSFindings

1. The Agency has, since 1964, credited all overseas service as qualifying for participation in CIARDS, regardless of the location of employment or the type of duties performed. The legislative history supports a finding that this policy position is within the broad discretion intended for the Director by the provisions of Section 203 of the law giving him the authority to designate participants.

The Agency has been consistent in crediting all overseas service as qualifying, and no exceptions or deviations have been found from the initial implementation of the 1964 law to the present time.

2. The Agency has applied a tight, restrictive policy to the determination of whether periods of domestic service are qualifying. This tight policy has been exercised consistently except for an eleven-month period from August 1, 1968 to June 30, 1969. During this period the policy was relaxed, and individuals were approved for participation and early retirement by accepting a lesser degree of hazard, less stringent conditions of security, or a lesser degree

of difficulty in obtaining outside employment, than would have been accepted as evidence of qualifying domestic service before or after the aberrant period.

No relaxation of policy or deviation from tight and restrictive application of the law and regulations in determining whether domestic service is qualifying have been found from July 1, 1969 to the present.

3. The Agency has not required that the services of an employee be impaired for future use by the Agency as a condition precedent to retirement under CIARDS.

The legislative history makes it clear that the types of service that can lead to impairment because of blown cover, physical or mental or motivational impairment, or possession of skills no longer needed, are justification for a special system of early retirement but need not be present in each individual case. Permitting and encouraging early retirement has the desirable result of separating most employees before their services are impaired and before they have detracted from the efficiency of the Agency.

4. Early retirements also serve the intended objectives of freeing personnel spaces to permit additional career intake and of enhancing promotion opportunities. The existence of a good retirement system is one of the

inducements for highly qualified young people to enter and to continue a career in the Agency.

5. CIARDS is a generous retirement system, more generous than the Civil Service Retirement System applicable to most Federal employees. CIARDS was patterned after the systems for Foreign Service officers, and for FBI agents and other law enforcement personnel. It is still comparable to Foreign Service, but has fallen behind FBI which now provides annuities up to 25 percent higher than CIARDS. It is less generous than the systems for Members of Congress and for D. C. Police and Firemen.

6. About one-third of Agency employees are participants in CIARDS. The original estimates in 1963 were that the system would cover one-fourth to one-third, and this estimate has been borne out by experience.

The number of CIARDS participants is declining and will continue to decline because total Agency strength is down and there are less employees overseas.

7. Grade or salary have never been factors in determining whether service is qualifying or in designating employees for participation in CIARDS.

8. There appears to be little or no advantage, to the employee or to the Agency, in the present system of designating employees as participants in CIARDS with as

little as 18 months of qualifying service and of removing them from participation at times of periodic review unless they have completed required additional qualifying service.

During the hearings which led to this study Congressman Stratton suggested that employees be designated for participation only after they have completed the 60 months of qualifying service required for permanent participation. This idea has merit, and should be adopted unless exploration in depth indicates that a system of delayed participation would not maintain a fund balance sufficient for payment of benefits when due.

9. Steps should be taken to conform the definition of "qualifying service" in the Agency's regulations to the definition found in the law.

The regulations give no effect to the provision of law which credits all service "performed by a participant in the system."

10. The Agency should write narrative descriptions of kinds of domestic service that are qualifying and of kinds of service that are not qualifying.

This suggestion, made by [REDACTED] Deputy Inspector General, would promote employees' understanding of whether their service is qualifying, bring about better acceptance of disapprovals and facilitate

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the handling of appeals. It would narrow, but not eliminate, the gray area in which subjective judgment must be exercised.

Conclusion

The Committee directive that led to this analysis includes the following:

"....During the course of consideration of this legislation there have been indications that in recent years there may have been deviations on the part of the Agency in administering this separate system from a strict application of the provisions of section 203 in designating officers and employees as participants in the CIA retirement system in line with the original intent of Congress when that system was created."

The author of this analysis has made a diligent but unsuccessful search for examples of the Agency deviations to which the Committee refers. No deviations from basic policies adopted in the original implementation of the CIA Retirement and Disability System have been found, except for the 1968-1969 relaxation of the otherwise tight and restrictive policy applied to the qualifying of domestic service as described elsewhere in this report.

The degree of consistency found in the Agency's designation of employees for participation in CIARDS raises the possibility that the Committee may not fully agree with one or more of the Agency's long-established

policies, such as (1) the qualifying of all overseas service regardless of location or type of duties, or (2) the approval of retirements without requiring a finding that the employee's services are impaired for future use.

These policies were adopted by the Agency in the belief, shared by officials who participated in the early hearings, that they are a proper exercise of the broad discretion the law gives the Director, and wholly consistent with the intent of Congress. A reading of the legislative history confirms this belief.

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Secret

Approved For Release 2002/01/08 : CIA-RDP80-00473A000600030015-1

DD/A Registry

File Personnel 17

DD/A Registry

76-2978

MEMORANDUM FOR: Director of Central Intelligence
THROUGH : Deputy Director for Administration
FROM : F. W. M. Janney
Director of Personnel
SUBJECT : Review of the Administration of CIARDS

1. Action Requested: It is requested that you approve our proposal for conducting the review of the administration of the CIA Retirement and Disability System directed by the Committee on Armed Services, House of Representatives.

2. Basic Data or Background: During the course of the Committee's review of the Agency's proposed amendments to the CIA Retirement and Disability System, Congressman Samuel S. Stratton raised certain objections relating to the manner in which the Agency has provided benefits of CIARDS to certain Agency employees. In order not to jeopardize enactment of these important amendments, we offered in our dealings with staff members to conduct a study of CIARDS administration. This apparently satisfied Congressman Stratton, and a requirement to conduct such a study was actually made a part of the report of the full Committee on Armed Services. An extract from the Committee Report is attached at Tab A. You will note that our report is due to the Committee by 1 October 1976.

3. Staff Position:

In order to assure an objective study and one which will be accepted by the Committee on its merits, whatever the conclusions might be, we suggest that it be conducted by an outsider. We propose, therefore, to hire some non-Agency person to conduct the review, supported by Agency personnel to the extent needed in explaining Agency operations, categories of personnel, and providing secretariat assistance.

The individual charged with this assignment should be an expert in the field and we believe we have identified such an individual: Mr. Andrew E. Ruddock, now retired, formerly was the Director of the Civil Service Commission's Bureau of Retirement, Insurance and Occupational Health for many years. Not only is he an acknowledged expert in the field of retirement, but his reputation for honesty, integrity, and administrative and management abilities was widespread throughout Government, and especially in the Congress.

For example, upon the occasion of his retirement, many testimonials were inserted into the Congressional Record expressing the views of the Congress on his personal and professional attributes. Some are attached for your information at Tab B.

We should bring to your attention, however, that for his many years of assistance to the Agency in resolving many complicated retirement questions involving certain categories of Agency personnel, the Director awarded Mr. Ruddock the Distinguished Intelligence Medal. In no way do we believe this compromises Mr. Ruddock's objectivity and integrity in conducting the required study. In our view he simply is incapable of distorting a conclusion or a recommendation merely because of his favorable attitude toward the Agency.

In the event Mr. Ruddock is either not available or chooses not to accept the assignment, we would attempt to find someone of similar stature in conducting the study. The present Director, Bureau of Retirement, Insurance and Occupational Health has suggested that if Mr. Ruddock is not available, either Mrs. Elizabeth F. Messer or Mr. Anthony Mondello be considered. Mrs. Messer served for many years as a Special Assistant to the Director, Bureau of Retirement and Insurance and is now retired. In 1964 she was one of six women who were awarded the Federal Woman's Award. Mr. Mondello, also retired, served for many years as the Civil Service Commission's General Counsel. While not a retirement expert, he should be familiar enough with retirement legislation and practices to conduct the study.

We would first determine whether Mr. Ruddock is available for the assignment; if not, we would obtain suggestions from him of other qualified individuals or have him assess the qualifications of Mrs. Messer or Mr. Mondello.

4. Recommendation: It is recommended that Mr. Andrew B. Ruddock be invited to conduct the study of the administration of the CIA Retirement and Disability System directed by the House of Representatives, Committee on Armed Services; or if Mr. Ruddock is not available, that we select a similarly qualified non-Agency individual to conduct such a study.

F. W. M. Jarney

Attachments:

Tab A-Extract from Committee Report

Tab B-Extract of Testimonials to Mr. Ruddock

CONCURRENCE:

/s/ Michael J. Melanick

 Deputy Director for Administration

15 JUN 1976

Date

APPROVAL:

/s/ George Bush

Director of Central Intelligence

22 JUN 1976

Date

Distribution:

Orig - Adse, return to D/Pers

1 - DCI

1 - DDCI

1 - HR

2 - IDA Chrono Subject

1 - D/Pers (w/hold)

1 - ID/Pers

1 - ID/Pers/SP(ROB)

ID/Pers:  bkf (14 Jun 76)

Extract: 94th Congress, 2d Session
House of Representatives
Report 94--1152 Part 1

TO AMEND THE CENTRAL INTELLIGENCE AGENCY RETIREMENT ACT
OF 1964 FOR CERTAIN EMPLOYEE, AS AMENDED

COMMITTEE OVERSIGHT COMMENT

When the CIA Retirement Act was originally considered by Congress in 1964 particular attention was focused on section 203 of the Act, which authorizes the Director to designate "such Agency officers and employees whose duties are determined by the Director to be (i) in support of Agency activities abroad hazardous to life or health or (ii) so specialized because of security requirements as to be clearly distinguishable from normal government employment, hereafter referred to as participants, who shall be entitled to the benefits of the system". Essentially, that provision was the basis for creating a separate retirement system and it was the intent of Congress that this system should apply to the relatively small percentage of Agency employees who were actually subjected to these very special hazards.

During the course of consideration of this legislation there have been indications that in recent years there may have been deviations on the part of the Agency in administering this separate system from a strict application of the provisions of section 203 in designating officers and employees as participants in the CIA retirement system in line with the original intent of Congress when that system was created.

Accordingly, in the exercise of its oversight function the Committee has directed that the CIA conduct a careful analysis of the application of the qualifying provisions of section 203 of the CIA Retirement Act in designating participants with reference to the special circumstances justifying their inclusion, and that the results of such analysis be reported to the Committee by the Director of Central Intelligence not later than October 1, 1976, and on an annual basis thereafter.

With reference to clause 2(1) (3) (1) of Rule XI of the Rules of the House of Representatives, the committee has not received a report from the Committee on Government Operations pertaining to this subject matter.

S 22478

CONGRESSIONAL RECORD — SENATE

December 11, 1973

shall subordinate all other interests to his political needs.

RETIREMENT OF MR. ANDREW E. RUDDOCK, DIRECTOR, BUREAU OF RETIREMENT, INSURANCE, AND OCCUPATIONAL HEALTH, U.S. CIVIL SERVICE COMMISSION

Mr. FONG. Mr. President, it was with regret that I, as the ranking Republican of the Senate Post Office and Civil Service Committee, received the news yesterday that Mr. Andrew E. Ruddock, Director of the U.S. Civil Service Commission's Bureau of Retirement, Insurance, and Occupational Health, will be retiring at the end of this month after 34 years of outstanding service to his country.

Mr. Ruddock is one of the most outstanding civil servants it has been my pleasure to know during my years of service in the U.S. Senate.

He has appeared before the Senate Committee on Post Office and Civil Service as a primary witness on Federal employee retirement and fringe benefit legislation many times. He has always impressed the committee with his candor, great understanding, and compassion for all Federal employees. He has helped the committee in many ways to establish and perfect the numerous bills and laws dealing with Federal employee retirement, health benefits, and life insurance.

Mr. Ruddock first joined the U.S. Civil Service Commission as an assistant messenger in June 1939 after receiving an ASS degree from Blackburn College, Carlinville, Ill. He subsequently was assigned to more responsible positions within the Commission until in September 1959, he was appointed Director of the Bureau of Retirement and Insurance. In 1969 he was appointed Director of the new Bureau of Retirement, Insurance, and Occupational Health.

His outstanding service in behalf of the Federal civil service was evidenced not only by his steady climb up the career ladder of the U.S. Civil Service Commission, but in 1961 he was awarded the Commissioners' Award for Distinguished Service, which is the highest award that the U.S. Civil Service Commission can bestow on its employees.

It is interesting to note that Mr. Ruddock's career reads like a Horatio Alger story within the Federal service. He rose from an assistant messenger, which is below a GS-1 level, to the rank of manager of a multibillion-dollar fringe benefits program for the largest single work force in America, the Federal Government.

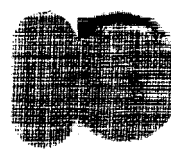
The programs he administers cover: First, the retirement of 2.6 million active employees and 1.3 million former employees and survivors who together receive annuity checks totalling \$450 million per month; second, a life insurance program for 2.4 million employees and 700,000 annuitants, with an annual payout \$338 million in claims; third, a health insurance program for 2.2 million employees, 700,000 retirees and dependents, totalling approximately \$1 billion in payments; fourth, an occupational health service of more than 900 health units including oversight of Alcoholism and

His personal integrity has been and continue to be above reproach.

We will greatly miss Andy's tact; his grasp of the most technical and complex issues; and, his very reliable counsel.

His complete dedication, loyalty, and positive approach to his responsibilities has been most refreshing.

Although I receive word of Andy Ruddock's retirement with regret, I am confident that all of the members of the Senate Committee on Post Office and Civil Service join me in wishing he and his wife Margaret a very happy future after many years of complete and satisfying service. He has served his nation well and all Federal employees and former employees owe him a most grateful thanks for his many, many years of unfaltering service in their behalf.



December 13, 1973

CONGRESSIONAL RECORD — HOUSE

H 11337

subject to appeal under present law. We would hope that any provision that may be adopted would, at a minimum, be so limited.

While we have spoken in general terms, we must emphasize that many administrative Treasury decisions in individual cases, as well as in regulations of general application, relate to energy, either directly or indirectly. An example under the Internal Revenue law would be decisions regarding the calculation of tax liability when the percentage depletion deduction for minerals is involved. Customs regulations affecting the movement and handling of cargo, and thus the amount of fuel expended by carriers, are a further example of this interrelationship. The delays and disruptions from appeals by the proposed Consumer Protection Agency in matters such as these, and a myriad of others, could be widespread and involve a large number of cases and individuals.

Sincerely yours,

GEORGE P. SHULTZ.

ANDREW E. RUDDOCK IS RETIRING FROM KEY CIVIL SERVICE POST

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. DULSKI) is recognized for 5 minutes.

Mr. DULSKI. Mr. Speaker, the decision of Andrew E. Ruddock to retire at the end of the month is a distinct loss to all Federal employees, present and retired.

For the past 34 years, Mr. Ruddock has been employed by the U.S. Civil Service Commission in a variety of capacities, principally with relation to the civil service retirement and health benefits program.

He has been director since the Commission created the Bureau of Retirement, Insurance, and Occupational Health in 1959. Previously, he was in the former Retirement Division, being named associate chief in 1951 and chief in 1953.

Mr. Ruddock's expertise in these fields is without peer. He has appeared frequently as a witness before our committee and always has been responsive, frank, and helpful in discussing the subject at hand. He will be very much missed here at the Capitol as he will be at the Commission.

Without question, he is one of the Commission's most dedicated employees. He has played a vital role in the progressive development of the civil service retirement, group health insurance, and health benefits programs.

Chairman Robert E. Hampton, in announcing the retirement, recalled that Mr. Ruddock was responsible in 1954 for putting the civil service life insurance program into effect within 12 days after it became law. This clearly is a man who does his homework.

Recently, I raised questions about the financial stability of the civil service retirement fund. Naturally, it was Mr. Ruddock to whom the Commission turned to be the principal witness before our committee to explain in careful detail the deficit situation which had developed over the years.

Mr. Speaker, the Commission tendered its highest honor to Mr. Ruddock in 1961 when he was given the Commissioners' Award for Distinguished Service.

We in Congress do not have awards to

give outstanding civil servants. But we can give them public recognition for their devotion and dedication to the best interests of our Federal establishment.

As chairman of the Committee on Post Office and Civil Service, this is what I do here today.

To Mr. Ruddock, I say: Your 34 years of continuous Federal employment have been exemplary. All who benefit from the programs which have been under your wing are deeply grateful for your stellar service. You have our sincere best wishes in your days of retirement ahead.

Mr. Speaker, as Mr. Ruddock leaves public service, he leaves a legacy of fine and capable assistants to take over his responsibilities. Thomas A. Tinsley will become director, John G. McCarthy associate director for operations, and Solomon Papperman associate director for policy. We welcome these promotions.